

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

DUSTY D HUMPHREY
Claimant

APPEAL NO. 09A-UI-19180-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**MANPOWER INTERNATIONAL INC
MANPOWER TEMPORARY SERVICES**
Employer

**OC: 04/26/09
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated December 15, 2009, reference 03, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 3, 2010. Claimant participated. Employer responded to the hearing notice and did not participate as the number provided was invalid. Employer did not call in before the hearing was over as instructed at the time of call in.

Employer called in after the hearing was over to request participation. Employer called 40 minutes after the hearing was to start. Employer's telephone number was out of order for an unknown reason. Employer delayed calling in when not called because their representative did not tell them to call within five minutes after the start of the hearing.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on November 8, 2009. Claimant left work for compelling personal reasons. Claimant needed to be with his grandmother in the hospital. Claimant informed the employer of the need to take time off. Claimant gave employer two days notice before leaving. Claimant returned six days later to ask for work but nothing was available.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of compelling personal reasons. Since claimant returned to

ask for his job back within ten days and no work was available this is a quit for good cause attributable to employer.

Iowa Code section 96.5-1-f provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department. But the individual shall not be disqualified if the department finds that:

f. The individual left the employing unit for not to exceed ten working days, or such additional time as may be allowed by the individual's employer, for compelling personal reasons, if so found by the department, and prior to such leaving had informed the individual's employer of such compelling personal reasons, and immediately after such compelling personal reasons ceased to exist the individual returned to the individual's employer and offered the individual's services and the individual's regular or comparable work was not available, provided the individual is otherwise eligible; except that during the time the individual is away from the individual's work because of the continuance of such compelling personal reasons, the individual shall not be eligible for benefits.

871 IAC 26.14(7) provides:

(7) If a party has not responded to a notice of telephone hearing by providing the appeals section with the names and telephone numbers of its witnesses by the scheduled time of the hearing, the presiding officer may proceed with the hearing.

a. If an absent party responds to the hearing notice while the hearing is in progress, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If a party responds to the notice of hearing after the record has been closed and any party which has participated is no longer on the telephone line, the presiding officer shall not take the evidence of the late party. Instead, the presiding officer shall inquire as to why the party was late in responding to the notice of hearing. For good cause shown, the presiding officer shall reopen the record and cause further notice of hearing to be issued to all parties of record. The record shall not be reopened if the presiding officer does not find good cause for the party's late response to the notice of hearing.

c. Failure to read or follow the instructions on the notice of hearing shall not constitute good cause for reopening the record.

At issue is a request to reopen the record made after the hearing had concluded. The request to reopen the record is denied because the party making the request failed to participate by reading and following the instructions on the hearing notice.

Employer's request to reopen the record is denied because employer delayed calling in for 40 minutes. Employer could have been included in the hearing if they had called while the hearing was in progress. Employer has a duty to call within five minutes of the start of hearing if not called.

DECISION:

The decision of the representative dated December 15, 2009, reference 03, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible. Employer's request to reopen the record is denied.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css