

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

ANNETTE M ARNDT
1104 N OHIO ST
MASON CITY IA 50401

SCHULZ PROPERTIES
C/O ERIC SCHULZ
1045 W 3RD ST
DUBUQUE IA 52001 6526

Appeal Number: 05A-UI-06703-DWT
OC: 05/15/05 R: 02
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Annette M. Arndt (claimant) appealed a representative's June 20, 2005 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Schulz Properties (employer) would not be charged because the claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 15, 2005. The claimant responded to the notice, was called, but was not available for the hearing. A message was left for the claimant to contact the Appeals Section immediately. Eric Schulz, the owner, participated on the employer's behalf.

After the hearing had been concluded and the employer had been excused from the hearing, the claimant contacted Appeals Section. She made a request to reopen the hearing. Based on the claimant's request to reopen the hearing, the evidence, the arguments of the parties, and

the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is there good cause to reopen the hearing?

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant worked about a year for the employer as a property manager. At various times, the employer talked to the claimant about problems with her work. On May 15, 2005, the employer gave the claimant a written reprimand regarding purchases she had made on the employer's behalf. Specifically, the claimant had ordered items and the employer did not know where the items went. As of May 15, 2005, the claimant's job was not in jeopardy.

On May 20, 2005, the employer received the claimant's written resignation, which was effective immediately. The claimant indicated she was resigning due to mental anguish. This was the first time the employer learned the claimant had any mental issues. After the claimant resigned, the employer learned about some potentially illegal transactions concerning the claimant and another co-worker. The employer turned this information over to the law enforcement officials.

The claimant was called for the 10:00 a.m. hearing at the phone number she previously provided. A message was left for the claimant to contact the Appeals Section immediately if she wanted to participate at the hearing. The claimant contacted the Appeals Section 20 minutes later. By the time the claimant called the Appeals Section, the hearing had been closed and the employer had been excused from the hearing. The claimant made a request to reopen the hearing because she asserted her phone never rang. The administrative law judge recorded the message that was left on the claimant's phone at 10:00 a.m.

REASONING AND CONCLUSIONS OF LAW:

If a party responds to a hearing notice after the record has been closed and the party who participated at the hearing is no longer on the line, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)(b) and (c).

The claimant's number was called at 10:00 a.m. and her answering machine picked up the call. For some reason the claimant did not hear her phone ring at 10:00 a.m. and a message was left for the claimant to contact the Appeals Section immediately. The employer was available and presented testimony. The claimant did not call the Appeals Section while the employer testified. The claimant's assertion that her phone did not ring is not credible because a message was left on her answering machine. The claimant may not have heard her phone ring, but she waited too long, 20 minutes, before she attempted to participate in the hearing.

Even though the claimant may have intended to participate in the hearing, she did not establish good cause to reopen the hearing. Therefore, her request to reopen the hearing is denied.

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code §96.5-1-a. The claimant voluntarily quit her employment on May 20, 2005. When a claimant quits, she has the burden to establish she quit with good cause attributable to the employer. Iowa Code §96.6-2.

The law presumes a claimant voluntarily quits her employment when she quits after being reprimanded. 871 IAC 24.25 (28). The facts indicate the claimant quit after the employer gave her a written reprimand that resulted in the claimant's mental anguish. The claimant may have compelling personal reasons for quitting. The evidence does not establish that she quit her employment for reasons that qualify her to receive unemployment insurance benefits. Therefore, as of May 15, 2005, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The claimant's request to reopen the hearing is denied. The representative's June 20, 2005 decision (reference 01) is affirmed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of May 15, 2005. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

dlw/kjw