

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

MARK H LERNER  
1829 – 80<sup>TH</sup> ST  
WINDSOR HEIGHTS IA 50322-5601

WALGREEN CO  
C/O TALX UC EXPRESS  
PO BOX 283  
ST LOUIS MO 63166-0283

Appeal Number: 06A-UI-06366-HT  
OC: 05/21/06 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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Mark Lerner, filed an appeal from a decision dated June 12, 2006, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on July 11, 2006. The claimant participated on his own behalf. The employer, Walgreen, participated by Store Manager Scott Glab.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Mark Lerner was employed by Walgreen from July 9, 2001 until May 21, 2006. He was a full-time assistant manager.

On May 1, 2006, Mr. Lerner approached Store Manager Scott Glab about attending a nursing class from May 22 until June 20, 2006. Mr. Glab said he would talk to his supervisor about it and the supervisor approved the matter as long as it did not interfere with the claimant's work or require the other assistant managers to work longer hours.

On May 11, 2006, Mr. Lerner and Mr. Glab sat down to determine how to work out the schedule. At that time the claimant said the class hours might change because it was not certain he was going to be able to attend the school as originally planned. The store manager again discussed it with the supervisor and it was determined that the store could not accommodate the changed schedule. Mr. Lerner then tendered his resignation as an assistant manager and was re-coded in the system as a "photo specialist" so he would be eligible for higher pay when seeking a job at another Walgreen.

The claimant was subsequently offered another job at another Walgreen but declined because he wanted a higher salary. He did attend the class in May and June 2006.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant quit work for reasons which would disqualify him unemployment benefits.

Iowa Code section 96.5-1 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.

871 IAC 24.25(26) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

- (26) The claimant left to go to school.

The claimant quit in order to attend a nursing class and the class schedule could not be reconciled with his work schedule without burdening the other assistant managers. His decision

to quit is without good cause attributable to the employer under the provisions of the above Administrative Code section. He is disqualified.

DECISION:

The representative's decision of June 12, 2006, reference 01, is affirmed. Mark Lerner is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

bgh/pjs