

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TERESA M SHEARD**  
Claimant

**APPEAL NO. 14A-UI-08683-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**STREAM INTERNATIONAL INC**  
Employer

**OC: 07/20/14**  
**Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit  
Section 96.6(2) - Timeliness of Appeal

**STATEMENT OF THE CASE:**

Teresa Sheard (claimant) appealed a representative's August 8, 2014, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Stream International (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 10, 2014. The claimant participated personally. The employer participated by Bangone Changhavong, Human Resource Generalist; Pamela Frye, Human Resources Coordinator; and Brian Carl, Team Manager. Exhibit D-1 was received into evidence. The employer offered and Exhibit One was received into evidence.

**ISSUE:**

The issue is whether the appeal was filed in a timely manner and, if so, whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: A disqualification decision was mailed to claimant's last-known address of record on August 8, 2014. She did receive the decision within ten days. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by August 18, 2014. The appeal was filed on August 18, 2014.

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on November 17, 2008, as a full-time customer support professional. In August 2013, the claimant was transferred to a new account, Xbox. The employer supplied her with two weeks of classroom training and two weeks of on-call training. If there had been an indication there was a need for more training, the employer would have provided more resources. The claimant's file contained no documentation of problems with performance or requests for more training. The claimant did not feel comfortable giving

technical support on Xbox. She was trying hard to learn the system but was concerned she could not.

The claimant requested and was granted a medical leave of absence starting on March 31, 2014. Her physician indicated she was having issues with anxiety and depression that were impacting her ability to work. On July 7, 2014, the claimant's physician said she was released to return to work without restrictions. On July 7, 2014, the claimant properly reported her absence due to personal reasons. On July 8, 2014, the claimant told the employer she was resigning because she was uncomfortable working with the Xbox account and experienced anxiety when taking calls. The claimant did not ask the employer for other work on different accounts. The claimant's doctor did not state she could not work at this job. Continued work was available had the claimant not resigned.

### **REASONING AND CONCLUSIONS OF LAW:**

The first issue to be considered in this appeal is whether the claimant's appeal is timely. The administrative law judge determines it is.

Iowa Code § 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of § 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to § 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving § 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to § 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving § 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding § 96.8, subsection 5.

The claimant mailed an appeal within the time period allowed by law. Therefore, the appeal shall be accepted as timely.

The next issue is whether the claimant voluntarily quit work without good cause attributable to the employer. The administrative law judge concludes she did.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.25(21) 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 § 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 § 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:

(21) The claimant left because of dissatisfaction with the work environment.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by her words and actions. She told the employer she was leaving and quit work. When an employee quits work because she is dissatisfied with the work environment, her leaving is without good cause attributable to the employer. The claimant left work because she did not like her work environment. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

#### **DECISION:**

The August 8, 2014, reference 01, decision is affirmed. The claimant's appeal is timely. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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