

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**TINA J HOCK**  
Claimant

**APPEAL NO. 15A-UI-11191-TN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HY-VEE INC**  
Employer

**OC: 09/06/15**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit  
Section 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

Tina Hock filed an time appeal from a representative's decision dated September 23, 2015, reference 01, which denied benefits finding that the claimant voluntarily quit work without good cause attributable to the employer. The claimant's appeal was due to be postmarked or received by the Appeals Section by October 3, 2015. The appeal was filed late because of an address error by the Agency which prevented Ms. Hock from receiving notice of the adjudicator's determination within the appeal period. Ms. Hock filed an appeal immediately upon being informed of the adjudicator's decision. The appeal was received on October 8, 2015. After due notice was provided, a telephone hearing was held on October 21, 2015. The claimant participated. The employer participated by Mr. Frankie Patterson, Hearing Representative and witnesses Mr. Wes Bromell, Human Resource Manager and Mr. Ted Jones, Fuel Station Manager.

**ISSUES:**

The issues to be considered are whether the appeal should be considered timely and whether the claimant voluntarily quit employment with good cause that was attributable to the employer.

**FINDINGS OF FACT:**

Having considered all the evidence in the record, the administrative law judge, finds: That the claimant's appeal was filed beyond the statutory time limit due to Agency error in the address for the claimant and the claimant immediately filed an appeal upon being informed of an adjudicator's decision that was adverse to her. The claimant has established good cause and her appeal considered timely.

Ms. Hock began employment with Hy-Vee Inc. on May 10, 2014. At the time that the claimant made application for employment, she specifically indicated on the application that she was available to work any hours, Monday through Sunday, except that she could not work before 2:00 p.m. on Thursdays or until after 5:00 p.m. on Friday's. Ms. Hock was initially hired as a cashier working 8:00 a.m. until 5:00 p.m. Subsequently, the claimant transferred to work at the Hy-Vee fuel facility adjacent to the Hy-Vee store. Ms. Hock generally worked 4:30 a.m. until

10:00 a.m. but was assigned to work different working hours on numerous occasions after accepting the assignment at the employer's fuel station facility.

In August 2015, Ms. Hock's working hours at the fuel facility were changed from 10:00 a.m. until 4:00 or 5:00 p.m. by the fuel station manager. The claimant had recently called in on a number of occasions saying that she was unable to open the facility at 4:00 a.m. and the fuel station manager had been required to go to the facility and open the station with little notice.

After further considering the matter, Mr. Jones, the station manager, made a management decision to change the claimant's working hours at the station from 10:00 a.m. to 4:00 or 5:00 p.m. and the claimant was informed on August 25, 2015 that the change in working hours would no longer be temporary but would be her new working hours at the facility.

Ms. Hock stated that the new hours "will not work," turned in her company keys and left the premises. The claimant stated no other reason at the time and although she had been informed of the open door policy of the human resources department at the store, Ms. Hock did not request that either the company human resource department or her immediate supervisor change the decision of her working hours or provide any further explanation.

It is the claimant's position that she was not given sufficient time in advance of the stated change for her working hours to make childcare arrangements and therefore quit her job with Hy-Vee Inc.

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

The issue is whether the evidence in the record establishes that the claimant left employment with good cause that was attributable to the employer. It does not.

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.

Iowa Admin. Code r. 871-24.25(18) 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:

(18) The claimant left because of a dislike of the shift worked.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable or

detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). Leaving because of dislike for the shift worked would not be good cause. 871 IAC 24.25(18). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

In the case at hand Ms. Hock had indicated at the time of hire that she was generally available for work any hours or days with the exception that she could not after 2:00 p.m. on Thursdays or until 5:00 p.m. on Fridays. During the course of her employment Ms. Hock had been assigned to work various work shifts by Hy-Vee Inc. Most recently the claimant had been assigned to work as an opener at the employer's fuel station and was to open the facility at 4:30 a.m. Because the claimant had called her manager on several occasions requiring the manager to open the facility for her, the fuel station manager made a management decision that the claimant be at work at 10:00 a.m. and work until 4:00 or 5:00 p.m. and the change was to take place the next day.

Ms. Hock chose to voluntarily leave her employment with Hy-Vee Inc. at that time by simply saying that the change would not work and thus surrendering her keys and leaving the premises. The claimant did not complain that the notice before the change was too short and did not indicate that the change might disrupt her childcare arrangements. The claimant had also been advised during orientation that she could go up the chain of command with any employment issues, but did not do so.

For the reasons stated herein the administrative law judge concludes that the claimant did not leave employment with good cause that was attributable to the employer. The claimant had agreed to work generally any hours when she made application for her employment and the claimant did not give the employer an opportunity to respond to her dissatisfaction with the change in working hours before she chose to voluntarily leave that day. Accordingly, unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

**DECISION:**

The representative's decision dated September 23, 2015, reference 01, is affirmed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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