

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHERYL A ATTWOOD**  
Claimant

**APPEAL NO: 06A-UI-08888-MT**

**ADMINISTRATIVE LAW JUDGE  
AMENDED DECISION**

**LAWSON PRODUCTS**  
Employer

**OC: 08/06/06 R: 04  
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated August 25, 2006, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on September 20, 2006. Employer participated by Gaby Bock, Human Resource Generalist, Marty Larson, District Sales Manager, and Garfield Sallman, Manager Human Resources. Claimant failed to respond to the hearing notice and did not participate. Exhibit One was admitted into evidence.

Claimant called after the hearing was over to request the record be reopened. Claimant was at a funeral home making arrangements for her mother's funeral services. Claimant's mother passed September 8, 2006. Claimant had this hearing on her calendar but forgot about it in the turmoil of making funeral arrangements. Claimant did not make a request to continue the hearing date.

**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 having considered all of the evidence in the record, finds: Claimant last worked for employer on July 31, 2006. Claimant quit due to a change from salary to commission. Claimant was told at the time of hire that she would be transferred to full commission if certain goals were not met. Claimant did not meet the goals and employer implemented the changes. Continued work 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 a change in the salary structure. Claimant was informed of

the change at the time of hire. This is not a significant change in the contract of hire. This is a quit for personal reasons as continued employment was available. Benefits withheld.

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 24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

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.

**DECISION:**

The decision of the representative dated August 25, 2006, reference 01, is reversed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible. No overpayment has been established. Claimant's request to reopen the record is denied.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

mdm/kjw