

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

DIANNE M PHIPPS
PO BOX 524
MONTEZUMA IA 50171

MCLD CORPORATION
419 E 1ST ST
MONTICELLO IA 52310

KRISTOFER LYONS
ATTORNEY AT LAW
PO BOX 351
MONTICELLO IA 52310-0351

AMENDED

Appeal Number: 05A-UI-03688-CT
OC: 03/13/05 R: 02
Claimant: Respondent (2)

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
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

MCLD Corporation filed an appeal from a representative's decision dated April 4, 2005, reference 01, which held that no disqualification would be imposed regarding Dianne Phipps' separation from employment. After due notice was issued, a hearing was held by telephone on May 4, 2005. Ms. Phipps participated personally. The employer participated by Chris Tutken, Owner, and Heidi Van Buren, Manager. The employer was represented by Kristofer Lyons, Attorney at Law. Exhibits One through Four were admitted on the employer's behalf.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Phipps began working for MCLD Corporation on October 27, 2003. She was initially hired to work full time as a store clerk. In December of 2004, she spoke with the manager about reducing her hours. She was told that a reduction would not be possible until the beginning of the following year.

On March 11, 2005, Ms. Phipps was presented with a schedule of her new hours. She had been working approximately 32 hours per week but was only scheduled for 17 hours per week on the new schedule. Ms. Phipps indicated that she did not know if the new schedule would work but that she would think about it. She was upset about the new schedule and, therefore, left the store before her scheduled time to leave. In leaving, she told coworkers that it had been nice working with them. Ms. Phipps was not scheduled to work again until March 16. She called on that date and asked Ms. Van Burden if she should come to work. She was told that she was presumed to have quit when she left on March 11. She then attempted to contact the owner on March 16 but, her call was not returned.

Ms. Phipps has been paid a total of \$1,112.00 in job insurance benefits since filing her claim effective March 13, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Phipps was separated from employment for any disqualifying reason. The administrative law judge concludes that she voluntarily quit. She left work before the end of her shift on March 11 and told coworkers that it had been nice working with them. These actions are indicative of one who is intending to leave the employment. She then called on March 16 to see if she should come to work. These factors suggest that Ms. Phipps quit on March 11 when she walked off the job. If she had not quit, there would have been no reason to contact the employer on March 16 about returning to work; she would simply have reported to work as scheduled.

An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Ms. Phipps quit because of the reduction in her work hours. She initiated the reduction when she asked the manager to reduce her hours. The two had not decided how many hours she would work before the new schedule was presented to Ms. Phipps on March 11. She was not anticipating that she would be reduced to only 17 hours per week. Ms. Phipps did not make a good-faith effort to resolve the issue of her reduced hours before quitting. She did not put the employer on notice that she intended to quit if her hours were not increased. Because the reduction was at Ms. Phipps request, the employer had no way of knowing in advance that a reduction to 17 hours might cause her to quit. Ms. Phipps did contact the owner of the business but only after she had already quit.

For the reasons cited herein, the administrative law judge concludes that Ms. Phipps did not have good cause attributable to the employer for quitting. She did not give the employer a fair and reasonable opportunity to correct the problem that was causing her to quit before she actually quit. Therefore, benefits are denied. Ms. Phipps has received benefits since filing her claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated April 4, 2005, reference 01, is hereby reversed. Ms. Phipps voluntarily quit her employment for no good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility. Ms. Phipps has been overpaid \$1,112.00 in job insurance benefits.

cfc/pjs