

**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**

**GINGER L LAKOSE  
427 S 2<sup>ND</sup> AVE W  
NEWTON IA 50208**

**IOWA TELECOMMUNICATIONS  
SERVICES INC  
c/o TALX UC EXPRESS  
PO BOX 283  
ST LOUIS MO 63166-0283**

**Appeal Number: 05A-UI-01109-RT  
OC: 12-19-04 R: 02  
Claimant: Appellant (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, 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 – Voluntary Quitting**

**STATEMENT OF THE CASE:**

The claimant, Ginger L. LaKose, filed a timely appeal from an unemployment insurance decision dated January 27, 2005, reference 01, denying unemployment insurance benefits to her. After due notice was issued, a telephone hearing was held on February 18, 2005, with the claimant participating. The employer, Iowa Telecommunications Services, Inc., did not participate in the hearing because the employer did not call in any telephone numbers, either before the hearing or during the hearing, where any witnesses could be reached for the hearing, as instructed in the notice of appeal. Two different notices of hearings were sent to the employer. The employer is represented by Talx UC eXpress, which is well aware of the need to call in a telephone number to the Appeals Section if the employer wants to participate in the hearing. The administrative law judge takes official notice of Iowa Workforce Development unemployment insurance records for the claimant. This hearing was consolidated with appeal

number 05A-UI-01110-RT for the purposes of the hearing with the consent of the claimant. Hearings for these appeals were previously scheduled for February 16, 2005 at 2:00 p.m. and rescheduled at the claimant's request.

#### FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: The claimant was employed by the employer, most recently as a full-time team leader, from July 2001 until she voluntarily quit effective November 19, 2004. On November 8, 2004, the claimant submitted a written notice of resignation giving the employer a two-week notice to be effective November 19, 2004. The claimant did so because she was seeking other employment. At the time of her quit the claimant had an offer in hand to go to work for Target. She also had three additional positions for which she was going to go through a second interview process. Because the claimant had a job in hand and facing second interviews for three other positions, the claimant thought that she should inform the employer of her quit because she did intend to take one of those positions. The claimant then had another interview on November 22, 2004 with Des Moines Veterinary Medical Group. She was offered a position with that employer on November 24, 2004 and she accepted but did not start until December 6, 2004 because of the scheduling of training. However, the claimant's position was eliminated on December 20, 2004 and she was laid off for lack of work. This employer realized that it was losing money from the prior year and eliminated the claimant's position and laid her off. All of the other positions available to the claimant had been filled by the time she was laid off from her position with Des Moines Veterinary Medical Group. The Des Moines Veterinary Medical Group is the same employer as Veterinary Medical Group and Des Moines Veterinary Services. The claimant did not file for unemployment insurance benefits until an effective date of December 19, 2004, after she had lost her position with Des Moines Veterinary Medical Group.

#### REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant's separation from employment was a disqualifying event. It was not.

Iowa Code Section 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant admits she left her employment voluntarily effective November 19, 2004. The issue then becomes whether the claimant left her employment without good cause attributable to the employer. The administrative law judge concludes that the claimant has the burden of proof to demonstrate by a preponderance of the evidence that she left her employment with the

employer herein with good cause attributable to the employer. See Iowa Code section 96.6-2. The administrative law judge further concludes that the claimant has failed to meet her burden of proof to demonstrate by a preponderance of the evidence that she left her employment with the employer herein with good cause attributable to the employer. The only reason the claimant quit was to accept other positions and this is not good cause attributable to the employer. However, the administrative law judge concludes that the claimant left her employment in good faith for the sole purpose of accepting other or better employment, which she did accept and for whom she performed services. Accordingly, the administrative law judge concludes that the claimant is not disqualified to receive unemployment insurance benefits but any benefits relating to wage credits earned with the employer herein, Telecommunications Services, Inc., shall be charged to the unemployment insurance compensation fund and not to the account of the employer.

It is true that at the time of the claimant's quit she had a job offer in hand only from Target. However, the claimant also had second-round interviews with three other employers and knew that she was going to be taking one of those positions and wanted to give the employer sufficient notice that she was leaving. Ultimately, the claimant took a position with yet another employer, for whom she interviewed on November 22, 2004, which position she accepted on November 24, 2004. The administrative law judge does not believe that the fact that the claimant ultimately accepted a different job than the one that she had at the time of her quit prevents the application of Iowa Code section 96.5(1)(a) nor does it affect her qualification for unemployment insurance benefits. The claimant had a job offer in hand and would have taken that job offer had she not had other job offers. The claimant took one of the other job offers but that job fell through. The claimant should not suffer for taking a different job than the one which she had in hand at the time of her quit simply because it was a different job. The administrative law judge concludes that the claimant acted in good faith throughout this period of time and did not file for unemployment insurance benefits until an effective date of December 19, 2004, which was after she had lost her employment with her new employer. Accordingly, the administrative law judge concludes that the claimant is entitled to receive unemployment insurance benefits but any benefits to which the claimant is entitled related to wage credits earned with the employer herein shall be charged to the unemployment compensation fund and not charged to the account of the employer herein.

#### DECISION:

The representative's decision dated January 27, 2005, reference 01, is reversed. The claimant, Ginger L. LaKose, is entitled to receive unemployment insurance benefits, provided she is otherwise eligible, because she left her employment voluntarily without good cause attributable to the employer but in good faith for the sole purpose of accepting other employment, which she did accept and for which she performed services. Any unemployment insurance benefits to which the claimant is entitled relating to wage credits earned with the employer herein, Iowa Telecommunications Services, Inc., shall be charged to the unemployment compensation fund and not charged to the account of the employer herein.

b/kjf