

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHEILA LEWIS

Claimant

APPEAL NO: 09A-UI-10102-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**FIRST ADVANTAGE MEMBERSHIP
SERVICES INC**

Employer

OC: 06/07/09

Claimant: Respondent (1)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

First Advantage Membership Services, Inc. (employer) appealed an unemployment insurance decision dated July 6, 2009, reference 01, which held that Sheila Lewis (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 30, 2009. The claimant participated in the hearing. The employer participated through Kristy Hensley, Human Resources Director and Michelle Tredway, Assistant Call Center Manager. Employer's Exhibits One and Two were admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time retention agent from April 28, 2008 through January 29, 2009 when she voluntarily quit her employment due to intolerable working conditions. She contends she was required to give customers false information. When a customer cancelled a credit card and wanted to cancel the services the employer was providing, the claimant and other employees were directed to advise the customers it was automatically cancelled when that was not the case. The claimant was required to attempt to save accounts from customers calling in claiming they were falsely enrolled and her failure to save these accounts reflected poorly on her performance record. She was not paid for her overtime and simply became fed up with having to "lie to customers" each day.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

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.

871 IAC 24.26(4) 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:

(4) The claimant left due to intolerable or detrimental working conditions.

The claimant quit her employment on January 29, 2009 due to intolerable working conditions. The employer contends the claimant quit her employment because she did not want to be fired. The claimant denies this claim and the evidence confirms the employer's contention is without merit. The assistant call center manager testified the claimant was called in and given a final verbal warning on February 14, 2009 but the human resources director testified the claimant's final day was February 12, 2009. The claimant actually quit due to what she labeled as unethical business practices.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005). The claimant testified that she was directed to provide false information to customers. When a customer cancelled a credit card and wanted to cancel the services the employer was providing, the claimant and other employees were directed to advise the customers it was automatically cancelled when that was not the case. The claimant was counseled because she had difficulty saving accounts when the customer was falsely enrolled. The fact that she was asked to save accounts for customers who were falsely enrolled confirms her position. The administrative law judge concludes a reasonable person would quit under like circumstances.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has satisfied that burden and benefits are allowed.

DECISION:

The unemployment insurance decision dated July 6, 2009, reference 01, is affirmed. The claimant voluntarily quit her employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs