

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

BARBARA BOLTON  
APT #1  
306 E 8<sup>TH</sup> ST  
DAVENPORT IA 52803

HY-VEE INC  
c/o TALX UCM SERVICES INC  
PO BOX 283  
ST LOUIS MO 63166-0283

TALX UC EXPRESS  
3799 VILLAGE RUN DR #511  
DES MOINES IA 50317

Appeal Number: 06A-UI-00711-DWT  
OC: 11/27/05 R: 04  
Claimant: Appellant (1)

**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 Quit

STATEMENT OF THE CASE:

Barbara Bolton (claimant) appealed a representative's January 4, 2006 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Hy-Vee, Inc. (employer) would not be charged because the claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 6, 2006. The claimant participated in the hearing. Willie Smart was available to testify on her behalf. David Williams, a representative with TALX, appeared on the employer's behalf. Jason Lester and Todd Robertson testified on the employer's behalf. 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:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on December 23, 2004. The claimant worked part time. Initially, the claimant worked in the Italian Express department. The claimant worked an average of 20 hours a week in this department. After the employer noticed some attendance issues, the employer transferred the claimant to work as a courtesy clerk in September 2005. The claimant worked about four hours a week as a courtesy clerk.

The last day the claimant worked was September 24, 2005. The claimant was scheduled to work on September 25, 30 and October 9, 2005. The claimant did not report to work or notify the employer she was unable to work as scheduled these days. The employer's written rules indicate an employee will be terminated for abandoning her job if the employee has three consecutively scheduled days she does not work or call the employer to report she is unable to work as scheduled. The employer sent the claimant a termination letter after she did not report to work as scheduled on September 25, 30 and October 9, 2005.

After the claimant received the termination letter, she contacted Robertson to ask if she could come back to work. Robertson told the claimant she needed to talk to her supervisor, Lester. The claimant did not contact Lester or come back to work after September 24, 2005.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. The facts indicate the claimant initiated her employment separation by failing to return to work after September 24, 2005. For unemployment insurance purposes, the claimant voluntarily quit her employment. When a claimant quits, she has the burden to establish she quit with good cause attributable to the employer. Iowa Code §96.6-2.

The claimant asserted she did not know when she was scheduled to work, but she worked on September 24 and was scheduled to work the very next day. The claimant testified she had asked for two to three days off from work to move, but she did not remember when she moved. Even if the claimant asked for some time off, it does not explain why she failed to report to work or notify the employer on September 25, 30 and October 9. If she moved during this time frame, it took her much longer than three days to move. The claimant indicated the employer had significantly reduced her hours and she was trying to get more hours. This does not appear to be a reason for not returning to work because after she learned she no longer had a job, the claimant contacted Robertson to see if she could come back to work. The claimant's recollection of events was hazy and generalized. The claimant did not remember any specific details. The employer's testimony was detailed and specific. A preponderance of the evidence establishes the claimant abandoned her job. While the claimant may have had compelling reasons for not returning to work or calling the employer on September 25, 30 and October 9, the claimant's failure to return to work after September 24 shows that she quit her employment

for reasons that do not qualify her to receive unemployment insurance benefits. As of November 27, 2005, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's January 4, 2006 decision (reference 01) is affirmed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of November 27, 2005. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

dlw/pjs