

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRANDY L COLE

Claimant

APPEAL NO. 07A-UI-07506-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

STREAM INTERNATIONAL INC

Employer

**OC: 07/01/07 R: 01
Claimant: Appellant (5)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Brandy L. Cole (claimant) appealed a representative's July 25, 2007 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Stream International, Inc. (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 21, 2007. The claimant was called for the hearing, but was not available. Jacqueline Kurtz, the human resource recruiter, John Heim and Stacy Albert appeared on the employer's behalf

After the hearing had been closed and the employer had been excused, the claimant contacted the Appeals Section. The claimant made a request to reopen the hearing. Based on the claimant's request to reopen the hearing, 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.

ISSUES:

Is there good cause to reopen the hearing?

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 November 13, 2006. The claimant worked as a full-time customer service representative. The claimant resigned on February 27, 2007. The claimant resigned in late February because of family issues.

The employer rehired the claimant on April 9, 2007. The claimant again worked as a full-time customer service representative. The claimant's last day of work was June 2, 2007. The claimant submitted a written resignation on June 6, 2007. The resignation letter indicated the claimant was resigning effective immediately because she did not have a babysitter.

The claimant responded to the hearing notice and provided the phone number to call for the hearing. The claimant was called for the hearing. The claimant did not answer the phone, but a message

was left for the claimant to contact the Appeal Section immediately if she was going to participate in the hearing. The claimant did not contact the Appeals Section until 8:55 a.m. for an 8:00 a.m. hearing. By the time the claimant responded, the hearing had been closed and the employer had been excused. The claimant was not available for the 8:00 a.m. hearing, because she overslept. The claimant requested that the hearing be reopened.

REASONING AND CONCLUSIONS OF LAW:

If a party responds to a hearing notice after the record has been closed and the party who participated at the hearing is no longer on the line, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)(b) and (c). Although the claimant properly responded to the hearing notice, she was not available for the hearing. While it is unfortunate that the claimant overslept, this does not constitute good cause to reopen the hearing. This is especially true when the claimant had an attendance issue while working for the employer. The claimant's request to reopen the hearing is denied.

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a.

Based on the evidence presented during the hearing, the claimant voluntarily quit her employment on June 6, 2007, when she resigned her job effective immediately. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive unemployment insurance benefits. Iowa Code § 96.6-2.

The law presumes a claimant voluntarily quits without good cause when she quits because of she does not have a child care provider. 871 IAC 24.25(17). The evidence shows the claimant quit because she did not have a babysitter. While this is a personal reason for quitting, it does not qualify her to receive unemployment insurance benefits. As of July 1, 2007, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The claimant's request to reopen the hearing is denied. The representative's July 25, 2007 decision (reference 01) is modified, but the modification has no legal consequence. The employer did not discharge the claimant. Instead, she 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 July 1, 2007. 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 will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw