

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LORI A KELLY
Claimant

APPEAL NO: 10A-UI-06585-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TM1 STOP LLC
Employer

OC: 03/21/10
Claimant: Appellant (5)

Section 96.5-1 – Voluntary Quit
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant appealed a representative's April 20, 2010 decision (reference 02) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. A telephone hearing was held on June 22, 2010. The claimant did not respond to the hearing notice or participate in the hearing. Heather Hoyt appeared for the hearing.

The hearing notice incorrectly indicated timeliness of appeal was an issue. The claimant had until April 30 to file an appeal and she faxed her appeal on April 30, 2010. The claimant filed a timely appeal.

The employer agreed a decision could be made based on the administrative record. Based on the administrative record 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 benefits, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on March 9, 2009. She worked as a full-time sales representative. The claimant went on a medical leave of absence on October 6, 2009. The employer received doctor's statements for the claimant's absences through November 3, 2009. The employer understood the claimant's doctor released her to return to work on November 3, 2009. The employer expected her to be at work on November 4.

The employer received information that the claimant would not be at work on November 4, because she was in too much pain to work. The employer asked the claimant to provide a doctor's statement verifying she was unable to work. The claimant did not report to work on November 4 or 5. On November 6, the claimant contacted the employer to state she would

bring in items belonging to the employer. On November 8, the claimant went to the employer's workplace and informed the employer she was not going to return to work because she did not believe she had enough job security. The claimant did not provide any doctor's statement indicating she was unable to work as of November 4.

REASONING AND CONCLUSIONS OF LAW:

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 sections 96.5-1, 2-a. The record indicates the claimant made the decision to end her employment when she failed to provide the employer with any further doctor's statement and told the employer on November 8, 2009, she was not returning to work. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code section 96.6-2.

The claimant may have had compelling personal reasons for quitting. The record, however, does not establish that she quit for reasons that qualify her to receive benefit. As of March 21, 2010, the claimant is not qualified to receive benefits.

DECISION:

The representative's April 20, 2010 decision (reference 02) is modified. The modification has no legal consequence. The employer did not discharge the claimant. Instead, the claimant voluntarily quit her employment. She did not establish that she quit for reasons that qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of March 21, 2010. 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/pjs