

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PRINCESS G TARLEY
Claimant

APPEAL NO. 12A-UI-02085-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ABM LTD
Employer

OC: 12/04/11
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated January 19, 2012, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on March 19, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Greg Stearns participated in the hearing on behalf of the employer with a witness, Jessica Trinidad. Exhibit A-1 was admitted into evidence at the hearing.

ISSUES:

Did the claimant file a timely appeal?

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked full time for the employer as a janitor from March 2010 to October 17, 2011. She began working on the dayshift from 8:00 a.m. to 4:30 p.m. In October 2011, the claimant requested that she be transferred to the night shift from 5:00 p.m. to 1:00 a.m. because wanted to spend more time with her children and attend classes during the day.

The claimant worked the first night shift on October 17. On October 18, she contacted the human resources coordinator and informed her that she did not like working on the night shift and wanted to return to the dayshift. The HR coordinator reminded the claimant about the employer's policy that requires an employee to work in a job for 90 days before the employee is allowed to transfer to a different job or shift. The claimant failed to report to work on October 18 or to notify the employer about her absence.

The claimant called the HR coordinator again on October 19 and said again that she wanted to work on the day shift. Her roommate had initially agreed to care for two children while she worked the night shift, but he later told her that he had soccer and could not watch her children. The HR coordinator again explained that she could not request a transfer for 90 days.

The claimant stopped reporting to work and stopped contacting the employer because she did not want to work on the night shift because the arrangement she had made for watching her children fell through.

An unemployment insurance decision was mailed to the claimant's last-known address of record on January 19, 2012. The decision concluded she had voluntarily quit employment without good cause attributable to the employer and stated the decision was final unless a written appeal was postmarked or received by the Appeals Section by January 29, 2012.

The claimant did not receive the decision within the ten-day period for appealing the decision. She filed a written appeal on February 24, 2012, after she received an overpayment decision that informed her that she had been disqualified.

REASONING AND CONCLUSIONS OF LAW:

The first issue in this case is whether the claimant filed a timely appeal.

The law states that an unemployment insurance decision is final unless a party appeals the decision within ten days after the decision was mailed to the party's last-known address. Iowa Code § 96.6-2. In this case, the claimant's appeal is deemed timely because she never received the disqualification decision and promptly appealed after she received the overpayment decision that alerted her that she had been disqualified.

The next issue is whether the claimant voluntarily quit employment without good cause attributable to the employer.

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. The evidence shows the claimant quit employment due because she changed her mind about working the night shift and her child care arrangement fell through. Neither reason was caused by the employer. The claimant is disqualified from receiving benefits.

DECISION:

The unemployment insurance decision dated January 19, 2012, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css