

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

AMY N GARES  
1905 W 66<sup>TH</sup> ST  
DAVENPORT IA 52806

APAC CUSTOMER SERVICE  
C/o TALX UC EXPRESS  
PO BOX 283  
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-04874-CT  
OC: 04/04/04 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:

Amy Gares filed an appeal from a representative's decision dated April 26, 2004, reference 01, which denied benefits based on her separation from APAC Customer Services, Inc. (APAC). After due notice was issued, a hearing was held by telephone on June 1, 2004. Ms. Gares participated personally. The employer participated by Turkessa Hill, Human Resources Coordinator, and Carmelita Stevens, Team Leader.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Gares was employed by APAC beginning January 13,

2004. She worked full time as a customer service representative receiving inbound calls from credit card applicants. Ms. Gares was meeting with her team leader, Carmelita Stevens on April 8 regarding her job performance. One of the problems noted was that Ms. Gares was not offering rebuttals to applicants' objections. She was provided scripted rebuttals to use depending on what objection was raised by the applicant. She knew that part of her job was to use the scripted rebuttals. Ms. Gares told Ms. Stevens that she was quitting because she did not intend to offer the required rebuttals. She did not offer any other reasons for quitting.

Ms. Gares also quit because there were times she was being sent home. When there is less call volume, some employees are sent home for the day. The decision as to who will be sent home is based on conversion rates, the number of calls that are converted to sales. Those individuals with lower conversion rates are sent home first during times of low call volume. Although Ms. Gares spoke to her trainer about being sent home, she never spoke to her supervisor about the problem. She never notified management that she intended to quit because of being sent home. Ms. Gares also quit because absences documented by a doctor's statement would still be counted against her. She was never denied permission to leave work early due to illness. She objected to the fact that leaving early due to illness would count against her attendance even if she brought in a doctor's excuse.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Gares was separated from employment for any disqualifying reason. An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code Section 96.5(1). Ms. Gares had the burden of proving that her quit was for good cause attributable to the employer. Iowa Code Section 96.6(2). Part of the reason she quit was because the employer required her to offer rebuttals when applicants voiced objections regarding the product she was selling. Ms. Gares knew or should have known that overcoming objections was necessary in order to promote sales. She knew from her training that the employer required her to offer rebuttals. The fact that she did not want to perform an essential function of her job did not constitute good cause attributable to the employer for quitting.

An additional reason for the decision to quit was the fact that the employer counted all absences, even those verified by a doctor as medically necessary. It was well within the employer's prerogative to have such a policy. It is within an employer's right to discipline an individual for unsatisfactory attendance even if the absences are caused by illness. Therefore, the employer's policy did not provide good cause for quitting. Ms. Gares also quit because of the fact that she was sent home during times of low call volume. She did not make any real, good-faith effort to resolve this issue before quitting. She did not discuss it with her supervisor or with anyone in human resources. In fact, she did not even list it as a reason for quitting on April 8. Moreover, the employer was working with her in an attempt to increase her conversion rates so that she would be less likely to be sent home during times of low volume.

After considering all of the evidence and the contentions of the parties, the administrative law judge concludes that Ms. Gares has failed to sustain her burden of proving that she had good cause attributable to the employer for quitting. Accordingly, benefits are denied.

DECISION:

The representative's decision dated April 26, 2004, reference 01, is hereby affirmed. Ms. Gares voluntarily quit her employment for no good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

cfc/b