

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DEBORAH L SYFERT**  
Claimant

**APPEAL NO: 09A-UI-08371-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CIRCLE B MARKET LLC**  
Employer

**OC: 05/03/09**  
**Employer: Respondent (1)**

Section 96.5-1 – Voluntary Quit  
871 IAC 24.25(38) – Resignation/Discharge

**STATEMENT OF THE CASE:**

The employer appealed a department decision dated June 2, 2009, reference 01 that held the claimant resigned effective May 8, 2009 with two-week notice to work, but was discharged by the employer on April 24th, which allowed benefits from May 3 to the resignation date. A telephone hearing was held on June 29, 2009. The claimant participated. The employer did not participate. Claimant Exhibit A was received as evidence.

**ISSUE:**

The issue is whether the claimant is eligible for benefits from her discharge on the date she resigned to her proposed resignation date.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witness, and having considered the evidence in the record, finds: The claimant gave two-week notice on April 22, 2009 that she was resigning from employment with the intention that she work the first week (April 27 to May 1), and use some accumulated vacation for the second week. The employer elected to discharge the claimant on April 27 rather than allow her to work to the notice date.

The employer failed to respond to the notice for hearing though it faxed an appeal on June 10.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

871 IAC 24.25(38) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

The administrative law judge concludes that the claimant resigned effective April 22, 2009. That is a voluntarily quit of employment without good cause attributable to the employer, but she was discharged on April 24 and that makes her eligible for benefits to the proposed resignation date.

A resignation is a voluntary quit without good cause attributable to the employer. However, the employer discharged the claimant and that denied her the opportunity to work the week ending May 1. The claimant is allowed benefits for the two-weeks (May 9) that is offset by the one week of vacation, but is denied thereafter, due to the effective date of the resignation. The claimant is satisfied with the department decision, and it is the employer who appealed.

**DECISION:**

The department decision dated June 2, 2009, reference 01, is affirmed. The claimant voluntarily quit without good cause attributable to the employer effective April 22, 2009, but she was discharged on her two-week notice date of May 9. That entitles her to receive benefits for that period less one week of vacation. Benefits are denied to the claimant effective May 10, 2009, until she has worked in and is paid wages for insured work, equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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