

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

JENNY S LYONS
2135 BLAIRS FERRY RD APT 3-D
CEDAR RAPIDS IA 52402

ROSS MARKETING INC
1395 STAMY RD
HIAWATHA IA 52233

Appeal Number: 04A-UI-03607-CT
OC: 12/14/03 R: 03
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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Jenny Lyons filed an appeal from a representative's decision dated March 29, 2004, reference 02, which denied benefits based on her separation from Ross Marketing, Inc. After due notice was issued, a hearing was held by telephone on April 22, 2004. Ms. Lyons participated personally. The employer participated by Judy Matousek, Human Resources Director.

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. Lyons was employed by Ross Marketing, Inc. from

January 12 through February 18, 2004 as a full-time telephone sales representative. Her boyfriend started with the employer on the same day as she and was discharged on February 18. Minutes after his discharge, Ms. Lyons told the employer she was quitting because she rode to work with her boyfriend and would no longer have a ride now that he was discharged.

During the hearing, Ms. Lyons alleged that she quit because the employer was harassing customers by making repeated calls after they had indicated no interest in the product. She also felt the employer was violating the law by calling people who were on the "do not call" registry. Ms. Lyons was making outbound calls on behalf of Bank One to individuals who were already Bank One customers. She was attempting to make sales of credit protection plans to individuals holding Bank One credit cards. If a customer indicates no interest in the product, the representative was to use a disposition code which would prevent the system from automatically dialing the number again. Ms. Lyons never notified the employer that she intended to quit because of alleged illegal or unethical business practices. Continued work would have been available if she had not quit.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Lyons 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. Lyons had the burden of proving that her quit was for good cause attributable to the employer. Iowa Code Section 96.6(2). Although she alleged that the employer's practices were either illegal or unethical, this contention has not been established by the evidence. The administrative law judge is satisfied that the employer was not violating any law by calling Bank One customers to sell a Bank One product. The national "do not call" regulations do not prohibit a business from making sales calls to individuals with whom they already have a business relationship.

Even if Ms. Lyons had a good-faith belief that the employer's actions were illegal or unethical, she had an obligation to advise the employer of her concerns and to notify the employer that she intended to quit if her concerns were not satisfactorily addressed. By not doing so, she deprived the employer of the opportunity to explain that her calls were not illegal or unethical. She also deprived the employer of the opportunity to determine if there were, in fact, individuals who were making calls in a manner not authorized. For the above reasons, the administrative law judge concludes that Ms. Lyons' complaints regarding the employer's procedures did not constitute good cause attributable to the employer for quitting.

Given the short time lapse between when her boyfriend was fired and when she quit, the administrative law judge believes that Ms. Lyons quit because her boyfriend was discharged. This was a personal reason for quitting and not one attributable to the employer. For the reasons cited herein, the administrative law judge concludes that Ms. Lyons has failed to satisfy 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 March 29, 2004, reference 02, is hereby affirmed. Ms. Lyons 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