

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

ASHLEY N HERLEIN
1517 W 3RD ST
DAVENPORT IA 52802

SEATON CORPORATION
STAFF MANAGEMENT
C/O TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-07239-CT
OC: 06/12/05 R: 03
Claimant: Respondent (2-R)

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:

Staff Management filed an appeal from a representative's decision dated July 8, 2005, reference 02, which held that no disqualification would be imposed regarding Ashley Herlein's separation from employment. After due notice was issued, a hearing was held by telephone on August 2, 2005. The employer participated by Rachel Leist, Senior Account Manager, and Roger Oberfoell, Supervisor. Ms. Herlein did not respond to the notice of hearing.

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. Herlein began working through Staff Management, a

temporary placement service, on September 9, 2004. She was assigned to work part time at Proctor & Gamble. She called on January 11 to report that she would be absent. She was absent from assigned work on January 12 and 13 but did not call on either date. When the supervisor called her home on January 13, he was advised by Ms. Herlein's boyfriend that the two had accepted work elsewhere. Ms. Herlein, herself, never contacted the employer at any point after January 11, 2005. Continued work would have been available if she had continued reporting for work. Staff Management is identified as her last employer on the claim for job insurance benefits filed effective June 12, 2005.

Ms. Herlein has been paid \$320.00 in job insurance benefits since filing her claim.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Herlein was separated from employment for any disqualifying reason. She abandoned her job when she stopped reporting for available work without notice. Therefore, the separation is considered a voluntary quit. An individual who voluntarily quits employment 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. Herlein did not participate in the hearing to offer an explanation as to why she stopped reporting for work. The evidence of record does not establish any cause attributable to the employer for the quit.

Ms. Herlein voluntarily quit her part-time employment with Staff Management for no good cause attributable to the employer. An individual who voluntarily quits part-time employment without good cause attributable to the employer may nevertheless qualify for job insurance benefits if there are sufficient other wage credits to establish a valid claim. See 871 IAC 24.27(96). Wage credits earned with the part-time employer that was quit may not be used on the claim until such time as the individual requalifies by earning ten times the weekly benefit amount in insured wages after the disqualifying separation. This matter shall be remanded to Claims to delete wage credits earned with Staff Management and to determine Ms. Herlein's entitlement after deletion of those wages.

The evidence does not establish that Ms. Herlein quit in good faith to accept other employment as provided by Iowa Code section 96.5(1)a. Although her boyfriend told Staff Management that they had accepted work elsewhere, other employment has not been established. Moreover, Staff Management is listed as the last employer before filing her claim. For these reasons, eligibility for benefits pursuant to section 96.5(1)a has not been established.

Ms. Herlein has received job insurance benefits since filing her claim effective June 12, 2005. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7). The overpayment may change depending on Ms. Herlein's eligibility for benefits after deletion of wage credits from Staff Management.

DECISION:

The representative's decision dated July 8, 2005, reference 02, is hereby reversed. Ms. Herlein voluntarily quit her part-time employment for no good cause attributable to the employer. Wage credits earned with Staff Management may not be used on her claim until such time as she requalifies for benefits by earning ten times her weekly benefit amount in insured wages. Ms. Herlein has been overpaid \$320.00 in job insurance benefits. This matter is remanded to Claims to determine Ms. Herlein's eligibility for benefits based on other wage credits and to recomputed the overpayment, if necessary.

cfc/pjs