

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

TAMMY K OWENS
2040 NORTHLAND CIR
CORALVILLE IA 52241

ACCESS DIRECT TELEMARKETING INC
c/o TALX – JOHNSON & ASSOCI
PO BOX 6007
OMAHA NE 68106 0007

Appeal Number: 06A-UI-01508-DWT
OC: 11/13/05 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:

Tammy K. Owens (claimant) appealed a representative's January 27, 2006 decision (reference 04) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Access Direct Telemarketing, Inc. (employer) would not be charged because the claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 23, 2006. The claimant participated in the hearing. Jessica Meyer, a representative with TALX, appeared on the employer's behalf with Heather Hoyt, the center manager. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on July 25, 2005. The employer hired the claimant to work full-time answering in-bound calls. The claimant understood the employer required new employees to attend training for two weeks before the employee answered calls. The claimant also understood that during the training, employees could not miss any days.

The claimant attended training on July 25. The claimant attended an experimental time for the training, noon to 6:00 p.m. The claimant started the training on July 26 and was there about 20 minutes. The claimant then received a call from her daycare provider that her son was ill and she needed to pick him up. The training coordinator told the claimant she should not worry because she could make up the training hours. On Wednesday, July 27, the claimant's son was still ill and the claimant was unable to report to work. The training coordinator told the claimant she could start the training again the following week or when she was available.

The claimant did not return because she learned her daycare provider changed the hours of its operation during the summer hour and was closing at 4:30 p.m. The daycare provider did not say anything to the claimant when she picked up her child around 5:00 p.m. on Monday. On Tuesday when the claimant picked up her sick child, she also gathered papers that were in his locker or bag. These papers informed the claimant of the daycare's change in hours during the summer. The claimant did not find any relative or friend who could pick up her child by 4:30 p.m. The claimant did not return to the employer for anymore training.

The claimant understood the other training sessions were full, but the employer had other training times available that the claimant could have attended. After the claimant completed her two-week training, she could have chosen the hours she wanted to work.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. The facts establish the claimant quit her employment by failing to return to a training class the week of August 1 or any subsequent week. When a claimant quits, she has the burden to establish she quit with good cause attributable to the employer. Iowa Code §96.6-2.

The law presumes a claimant voluntarily quits employment without good cause when she quits because of childcare issues. 871 IAC 24.25(17). Even though the claimant may not have been able to find a daycare provider that allowed her to work until 6:00 p.m., the claimant never contacted the employer again to make arrangements to take the 9:00 a.m. to 3:00 p.m. training.

It does not make any logical sense for the daycare provider to say nothing on Monday, July 25, when the claimant picked up her child after 4:30 p.m. or after the daycare had closed for the day. Since the employer had several times in which a person could receive training and

classes are not full, the claimant's failure to make arrangements to get into a future class, 9:00 a.m. to 3:00 p.m., supports the conclusion that the claimant quit this employment.

The claimant may have compelling person reasons for quitting. The claimant did not establish reasons that qualify her to receive unemployment insurance benefits. As of November 13, 2005, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's January 27, 2006 decision (reference 04) is affirmed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of November 13, 2005. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

dlw/tjc