

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CATHY L EARLS**

Claimant

**US POSTAL SERVICE**

Employer

**APPEAL NO: 10A-UI-00743-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/29/09**

**Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit  
871 IAC 24.26(21) – Quit or be Fired

**STATEMENT OF THE CASE:**

The employer appealed a department decision dated December 30, 2009, reference 02, that held the claimant forced to resign or be discharged on November 7, 2009, and benefits are allowed. A telephone hearing was held on February 24, 2010. The claimant participated. The employer did not participate in the hearing.

**ISSUE:**

Whether the claimant voluntarily left with good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the claimant, and having considered the evidence in the record, finds: The claimant worked for the employer as a Saturday mail delivery person from July 1, 2009 to November 1. The claimant was admonished about leaving her car running while making a delivery, but no formal warning was issued. After her final delivery, the claimant was given the option of resigning or being fired. The claimant resigned, because she did not want a discharge on her employment record.

The employer did not respond to the hearing notice.

**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 24.26(21) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(21) The claimant was compelled to resign when given the choice of resigning or being discharged. This shall not be considered a voluntary leaving.

The administrative law judge concludes the claimant voluntarily quit with good cause on November 7, 2009 when she was given the choice of resigning or being fired. This separation from employment is not considered voluntary, and benefits are allowed.

**DECISION:**

The department decision dated December 30, 2009, reference 02, is affirmed. The claimant was subject to an involuntary separation from employment for no disqualifiable reason on November 7, 2009. Benefits are allowed, 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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