

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DEBORAH A STEPHENS**  
Claimant

**APPEAL NO. 08A-UI-01201-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CITY OF DES MOINES**  
Employer

**OC: 01/13/08 R: 02  
Claimant: Respondent (4)**

Section 96.5(1) – Voluntary Quit  
Section 96.3(7) – Recovery of Overpayments

**STATEMENT OF THE CASE:**

The City of Des Moines filed an appeal from a representative's decision dated February 1, 2008, reference 01, which held that no disqualification would be imposed regarding Deborah Stephens' separation from employment. After due notice was issued, a hearing was held by telephone on February 19, 2008. Ms. Stephens participated personally. The employer participated by Sally Wisdom, Deputy Director, Des Moines Public Library.

**ISSUE:**

At issue in this matter is whether Ms. Stephens was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Stephens was employed by the City of Des Moines from July 23, 2007 until January 6, 2008. She was hired to work 20 hours each week as a clerk in the Des Moines Public Library. Her supervisor met with her on December 18 to discuss her attendance. Because of health issues, the employer offered Ms. Stephens the opportunity to work a reduced schedule. The supervisor contacted the legal department to make sure Ms. Stephens could be allowed to work fewer hours than she was hired to work.

Ms. Stephens was off work for surgery and was scheduled to return on January 6. Before she left for work, she found three answering machine messages from the supervisor questioning whether she intended to return to work that date. Ms. Stephens reported to work and there was a brief exchange with the supervisor as to why the calls had not been returned. During the exchange, she questioned the supervisor as to why she had divulged information to coworkers concerning her reason for being away from work. The exchange became somewhat heated and Ms. Stephens announced that she was giving her two weeks' notice.

The supervisor notified Ms. Stephens that she did not have to work through her notice period and that January 6 would be her last day. As Ms. Stephens was leaving, the supervisor asked her to sign a resignation form. She did not have her glasses but did sign the form, which indicated that she was resigning. Continued work would have been available if Ms. Stephens had not quit.

Ms. Stephens filed a claim for job insurance benefits effective January 13, 2008. She has received a total of \$497.00 in benefits since filing her claim. Of the benefits received, \$388.00 was received for the period subsequent to January 19, 2008.

**REASONING AND CONCLUSIONS OF LAW:**

The parties disagree as to whether Ms. Stephens' separation was a quit or a discharge. The supervisor presented Ms. Stephens with a form to sign indicating she was quitting. It appears the form was prepared before the supervisor knew Ms. Stephens did not have her glasses and might be unable to read the document. It seems unlikely the supervisor would prepare a resignation form if she had just discharged Ms. Stephens. It also seems unlikely the supervisor would work to accommodate Ms. Stephens by reducing her schedule if she wanted to get rid of her. On the whole, the administrative law judge found the employer's explanation of the circumstances surrounding the separation to be more persuasive than that of Ms. Stephens.

The administrative law judge finds that Ms. Stephens initiated her separation when she notified her supervisor that she was giving two weeks' notice. 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). The evidence of record does not establish any good cause attributable to the employer for Ms. Stephens' quit. As such, her separation was a disqualifying event.

An individual who was discharged prior to the effective date of resignation is allowed benefits from the last day worked until the proposed date of resignation. See 871 IAC 24.25(38). Therefore, Ms. Stephens is allowed benefits from January 6 through January 19, 2008. She has received benefits for each of the four weeks ending February 16, 2008. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

**DECISION:**

The representative's decision dated February 1, 2008, reference 01, is hereby modified. Ms. Stephens quit her employment for no good cause attributable to the employer but was discharged prior to the effective date of resignation. Benefits are allowed from January 6 through January 19, 2008. Benefits are withheld effective January 20, 2008 and until such time as Ms. Stephens 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. Ms. Stephens has been overpaid \$388.00 in job insurance benefits.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw