

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARGARITA P GARCIA
Claimant

APPEAL NO. 12A-UI-02738-DW

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCED SERVICES
Employer

**OC: 11/27/11
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's February 27, 2012 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she voluntarily quit her employment for reasons that do not qualify her to receive benefits. In her appeal letter, the claimant requested an in-person hearing, which was granted and held on April 9. The claimant did not appear for the hearing. Mike Cole, the owner, and Joann Deaton, the secretary and scheduler, appeared on the employer's behalf. Ike Rocha, an interpreter, appeared for the hearing with his driver.

About 90 minutes after the hearing closed, the claimant's daughter called the Appeals Section on behalf of her mother. The claimant made a request to reopen the hearing. Based on the claimant's request to reopen the hearing, the evidence, the arguments of the parties and the law, the administrative law judge must deny the claimant's request to reopen the hearing and concludes the claimant is not qualified to receive benefits.

ISSUES:

Should the claimant's request to reopen the hearing be granted?

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

FINDINGS OF FACT:

On June 28, 2011, the employer hired the clamant to work as a full-time employee to do general cleaning. The claimant usually worked day hours and cleaned houses. The claimant's last day of work was November 23.

On November 28, the clamant and other employees came to work to report problems with their last paycheck. One employee brought her teenage daughter to interpret for the employees. Cole considered the teenager rude and told her a number of times to be respectful. On November 28, Deaton talked to the claimant about the problems with her last paycheck and started investigating the problem with the claimant and other employees' most recent paychecks.

The claimant was scheduled to work on November 29. She did not call or report to work. On November 30, the claimant met with Cole. Cole and the claimant went over the hours the claimant had worked on her last paycheck. Cole understood that during this conversation the claimant was satisfied with the adjustments the employer made to her last paycheck. The employer issued the claimant a corrected paycheck.

Even though the claimant was scheduled to work November 29 through December 2, she did not report to work as scheduled any day. She did not contact the employer to report she was unable to work any day.

On December 1, Cole learned the claimant and other employees went to the sheriff's office to complain how he had treated the teenage interpreter on November 28. The sheriff told Cole that all the employees told him they had quit working for the employer. Based on this information and that the claimant had not called or reported to work that week, the employer considered the claimant to have quit as of December 1.

When the claimant appealed, she requested an in-person hearing. She did not appear for the in-person April 9 hearing. The claimant walked to her daughter's home around 2 p.m. to find out why she had not been called for the April 9 hearing. The claimant's daughter does not live at home. When her daughter asked her mother why she thought she would be called on April 9, the claimant did not know or have an explanation. The claimant requested that the hearing be reopened.

REASONING AND CONCLUSIONS OF LAW:

When an absent party responds to the notice of hearing after the record has closed and the other party is no longer present, the administrative law judge cannot take evidence from the party who was late for the hearing. The administrative law judge may only ask why the party was late. The hearing shall not be reopened if the party does not establish good cause for responding late to the hearing notice. Failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)b,c.

The claimant made the request for an in-person hearing and everyone, but the claimant, appeared for the hearing. The claimant received the hearing notice and did not know why she assumed the hearing was a telephone hearing after she requested an in-person hearing. She did not establish good cause to reopen the hearing. The claimant's request to reopen the hearing is denied.

A claimant is not qualified to receive benefits if she voluntarily quit her employment without good cause attributable to the employer. Iowa Code § 96.5(1). Even though the claimant did not tell the employer she had quit, her failure to report to work or call the employer in addition to telling the sheriff she had quit, establishes that the claimant intended to quit her employment. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6(2).

The facts establish the claimant had problems with her wages on her last paycheck. When she brought this to the employer's attention, the employer investigated immediately and issued the claimant a corrected paycheck. The employer even talked to her about this issue on November 30 in an attempt to make sure she was satisfied with the corrections the employer made. After the November 30 meeting, the employer understood, the claimant was satisfied with the corrections the employer made to her paycheck. If the claimant quit because of

problems with wages on her last paycheck, this does not constitute good cause for quitting. Why - because the employer took reasonable and timely steps to resolve the problems with this paycheck. The claimant may have had personal reasons for quitting, but the evidence does not establish that she quit for reasons that qualify her to receive benefits. As of November 27, 2011, she is not qualified to receive benefits.

DECISION:

The claimant's request to reopen the hearing is denied. The representative's February 27, 2012 determination (reference 01) is affirmed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant is disqualified from receiving benefits as of November 27, 2011. This disqualification continues until she earns ten times her weekly benefit amount from an insured employer. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs