

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

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GOLDEN AMERICAN LIFE INSURANCE
C/o SHEAKLEY UNIVSERVICE
PO BOX 1160
COLUMBUS OH 43216-1160

Appeal Number: 04A-UI-08325-ET
OC: 05-02-04 R: 02
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 Leaving
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant appealed from the May 14, 2004, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 23, 2004. The claimant participated in the hearing. Tom Green, Human Resources Consultant and Christy Cooper, Director of New Business Operations, participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the claimant's last known address of record on May 14, 2004. The claimant testified she did not receive the decision and consequently did not file an appeal until

August 2, 2004. Therefore, because the claimant did not receive the decision, the administrative law judge must conclude her appeal is timely.

The claimant was employed as a full-time good order representative for Golden American Life Insurance from April 22, 2002 to April 29, 2004. The claimant was on a medical leave of absence from January 30, 2004 to April 18, 2004, because of depression, borderline personality, panic attacks and a bleeding ulcer. She was released to return to work half-days April 19, 2004, and met with the employer that day to discuss her new working hours. The employer approved her working half-days per the claimant's doctor's recommendation. The claimant worked four hours April 19 and then called in sick April 20 through April 29, 2004, at which time she left a message for the employer stating she was voluntarily leaving her employment because she did not feel she was able to continue working there. The claimant's physician did not advise her that she needed to quit her job and the employer had continuing work available.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

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.

In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(21). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code Section 96.6-2 (amended 1998). The claimant was on a medical leave of absence from January 30, 2004 to April 18, 2004, and was released to return to work half-days April 19, 2004. The employer agreed to the claimant's schedule of working half-days but after working four hours April 19, 2004, the claimant never returned to work but called in sick from April 20 through April 29, 2004, when she left a message for the employer stating she was quitting her employment. The claimant testified she did not feel she could return to the workplace and did not believe "it was fair" to the employer to continue her employment when she did not believe she was able to return and resume her job duties. Consequently, the administrative law judge concludes the claimant's leaving was not for good cause attributable to the employer. Benefits are denied.

DECISION:

The May 14, 2004, reference 01, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

je/pjs