

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANISHA BRYANT**  
Claimant

**APPEAL NO. 07A-UI-01770-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WELLS FARGO BANK NA**  
Employer

**OC: 01-27-07 R: 02  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving  
Section 96.3-7 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the February 9, 2007, 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 March 6, 2007. The claimant participated in the hearing. Melissa Savits, Supervisor and Amy Salstron, Supervisor, participated in the hearing on behalf of the employer. Department's Exhibit D-1 was admitted into evidence.

**ISSUE:**

The issue is whether the claimant's appeal is timely and whether she voluntarily left her employment with good cause attributable to 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 February 9, 2007. The claimant received the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by February 19, 2007. That date fell on a legal holiday so the appeal was due February 20, 2007, which was the date the appeal was filed. Consequently, the claimant's appeal is timely.

The claimant was employed as a full-time customer service representative II for Wells Fargo Bank from March 20, 2006 to January 22, 2007. On February 12, 2006, the claimant received a warning for tardiness after she was tardy or left early nine times between April 5, 2006, and January 13, 2007. On January 18, 2007, she received a final warning for absenteeism after accumulating 15 absences between April 3, 2006, and January 17, 2007. Her final absences on January 11, 15, 16 and 17, 2007, were due to car trouble. On January 21, 2007, the claimant called the employer and left a message stating because of the weather and her lack of car insurance she would not be in and knew she would lose her job because she was on a final written warning so was voluntarily leaving her position. The employer had not made a determination of whether the claimant's employment would be terminated or not and did not tell the claimant she would be fired if she did not resign.

**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.

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. The claimant had a poor attendance record and as a result she received a final warning about her attendance January 18, 2006, following four days of car problems. While she may have believed her employment would be terminated because of the final warning, the employer did not tell her it would terminate her employment if she did not resign; instead the claimant assumed she would be discharged. This case is similar to LaGrange v. IDJS, (Unpublished, Iowa App. 1984), which found where an individual mistakenly believes that he is discharged and discontinues coming to work (but was never told he was discharged), the separation is a voluntary quit without cause attributable to the employer. While the claimant may have resigned because she thought she would be fired, the employer did not in fact fire her. Consequently, the administrative law judge concludes the claimant voluntarily left her employment and has not demonstrated that her leaving was for good cause attributable to the employer. Benefits are denied.

**DECISION:**

The February 9, 2007, reference 01, decision is affirmed. The claimant's appeal is timely. 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.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/css