

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LISA M ELLIS
Claimant

APPEAL NO. 08A-UI-02298-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**FAMILY DOLLAR STORES OF
IOWA INC – STORE #1424**
Employer

OC: 01/20/08 R: 03
Claimant: Respondent (2-R)

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

STATEMENT OF THE CASE:

Family Dollar Stores of Iowa, Inc. filed an appeal from a representative's decision dated February 26, 2008, reference 04, which held that no disqualification would be imposed regarding Lisa Ellis' separation from employment. After due notice was issued, a hearing was held by telephone on March 24, 2008. Ms. Ellis participated personally. The employer participated by Carmen Bell, Store Manager.

ISSUE:

At issue in this matter is whether Ms. Ellis 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. Ellis began working for Family Dollar Stores on April 23, 2007 as a part-time cashier. She was told she would be working from 15 to 25 hours each week. Her last day at work was July 27. She did not return to work or contact the employer regarding her intentions after July 27. She was on the schedule to work after July 27 and continued work would have been available if she had reported to work.

On August 10, Ms. Ellis signed a resignation form for Family Dollar Stores but did not indicate a reason for leaving. She acknowledged during the hearing that she did not tell anyone the reason she was leaving the employment. She began a new job in September but the job ended approximately one month later.

Ms. Ellis filed a claim for job insurance benefits effective January 20, 2008. She has received a total of \$1,440.00 in benefits since filing the claim.

REASONING AND CONCLUSIONS OF LAW:

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). Ms. Ellis contended that she quit because she was not on the work schedule for a period of ten days. The administrative law judge found the employer's testimony that she was on the schedule after July 27 to be more credible. This conclusion is based, in part, on the fact that she did not indicate a reason for leaving when she completed the resignation form. She did not indicate a lack of work hours because she knew the employer would recognize it as an untrue statement.

Because Ms. Ellis was, in fact, on the work schedule after July 27, it must be concluded that she did not leave the employment because the employer failed to schedule her for work. The evidence of record does not establish any good cause attributable to the employer for the separation. As such, it was a disqualifying event. Although Ms. Ellis had employment elsewhere after leaving Family Dollar Stores, the new employment did not begin until September. Therefore, she did not leave in July in good faith for the sole purpose of accepting new employment as provided by Iowa Code section 96.5(1)a.

An individual who voluntarily quits part-time employment for no good cause attributable to the employer may still qualify for job insurance benefits if there are sufficient other wage credits in the base period of the claim to establish a valid claim. 871 IAC 24.27(96). Wage credits earned with the employer that was quit may not be used on the claim until the individual has earned at least ten times the weekly benefit amount in insured wages after the separation. This matter shall be remanded to the Claims Section to determine if Ms. Ellis has sufficient other wage credits on which to base a valid claim for benefits. She may also have requalified for benefits after her disqualifying separation from Family Dollar Stores. It is her responsibility to provide proof of subsequent wages to her local Workforce Development office so that a determination may be made as to whether she had requalified when she filed her claim in January of 2008.

Ms. Ellis has received \$1,440.00 in job insurance benefits since filing her claim effective January 20, 2008. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7). The fact of an overpayment or the amount of the overpayment may change depending on whether Ms. Ellis had requalified for benefits when she filed for unemployment. It may also change depending on whether she has sufficient other wage credits to establish a valid claim after deletion of wage credits earned with Family Dollar Stores. Ms. Ellis will be notified in a separate decision if any changes are made to the overpayment amount assessed herein.

DECISION:

The representative's decision dated February 26, 2008, reference 04, is hereby reversed. Ms. Ellis voluntarily quit her part-time employment with Family Dollar Stores for no good cause attributable to the employer. Wage credits earned with Family Dollar Stores may not be used on the claim until such time as she 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. Ellis has been overpaid \$1,440.00 in job insurance benefits. This matter is remanded to the Claims Section to determine if she has sufficient other wage credits to establish a valid claim. Family Dollar Stores will not be charged for benefits paid to Ms. Ellis.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs