

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

VICKY J CLAUSEN
1401 EARLY ST
SAC CITY IA 50583

MEDIA SOLUTIONS INC
CARROLL TODAY NEWSPAPER
PO BOX 593
CARROLL IA 51401

Appeal Number: 04A-UI-00063-CT
OC: 11/30/03 R: 01
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 Quit

STATEMENT OF THE CASE:

Vicky Clausen filed an appeal from a representative's decision dated December 26, 2003, reference 01, which denied benefits based on her separation from Media Solutions, Inc. After due notice was issued, a hearing was held by telephone on January 26, 2004. Ms. Clausen participated personally and offered additional testimony from Duane Clausen. The employer participated by Mistie Knowles, Advertising Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Clausen was employed by Media Solutions, Inc. from July 1 until November 18, 2003 selling advertising on a full-time basis. On the morning of November 18, she notified Luke Knowles, President, that she would not be at work because she needed to remain with her husband while he waited for a kidney stone to pass. Mr. Knowles approved the absence. Later that morning, Mistie Knowles contacted Ms. Clausen concerning unfinished work. Ms. Knowles wanted to know the status of certain work in order to have it delegated to others. She did not request that Ms. Clausen come to the office and told her there was no need for her to be there. But, Ms. Clausen indicated she would be there within an hour. However, she called back shortly thereafter and quit because she felt she was pressured to report to work when she needed to remain with her husband.

Ms. Clausen also quit because she felt certain aspects of the job had been misrepresented to her. She had been told that she would be the only person making sales in a certain geographic area, with the exception of a few established accounts. However, if people called the paper, anyone who answered the telephone could sell advertising. Ms. Clausen had also been told that she would be reimbursed for mileage as her job required her to call on customers in the area. When she submitted mileage from her home to the office, she was told the miles, approximately 30, had to be deducted as the employer did not pay mileage to come to the office. If she went directly from her home to a customer, she would be paid for any miles in excess of 30.

Ms. Clausen contacted the employer on two occasions after November 18 in an attempt to get her job back. She was told that the only work available was working outside the office selling advertising on a commission basis. The work was declined.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Clausen was separated from employment for any disqualifying reason. An individual who leaves employment voluntarily 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. Clausen had the burden of proving that her quit was for good cause attributable to the employer. Iowa Code Section 96.6(2). Her decision to quit was triggered by the telephone conversation she had with Ms. Knowles on November 18. Ms. Knowles did not pressure her to come to work, she only questioned the status of some of her work. In fact, Ms. Knowles told her she did not need to come to the office. Because it was anticipated that Ms. Clausen would not be at work, it was not unreasonable for the employer to seek information on the status of her work so that it could be completed by others. There was nothing about the exchange which would constitute good cause attributable to the employer for quitting.

It is true that the employer did not pay Ms. Clausen for mileage for the drive from her home to the office. Most employers do not pay an individual for either the time or mileage expended to get to work. The employer's policy was not an unreasonable one. It is also true that others in the office were selling advertising for the same geographic area in which Ms. Clausen worked. It is unreasonable to expect that the employer would turn away a telephone sale in order to have Ms. Clausen contact the customer. Moreover, Ms. Clausen sought a return to the employment after she quit without any indication that the employer would make changes regarding mileage and who could make sales. Therefore, the administrative law judge is not

inclined to find good cause attributable to the employer for quitting where the individual desires a return to the same employment under the same terms and conditions.

After considering all of the evidence, the administrative law judge concludes that Ms. Clausen has failed to satisfy her burden of proving that she had good cause attributable to the employer for quitting. Accordingly, benefits are denied.

DECISION:

The representative's decision dated December 26, 2003, reference 01, is hereby affirmed. Ms. Clausen voluntarily quit her employment for no 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 job insurance benefit amount, provided she satisfies all other conditions of eligibility.

cfc/kjf