

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RHONDA M CASH
Claimant

APPEAL NO. 08A-UI-02563-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HOPE HAVEN INC
Employer

**OC: 12/23/07 R: 02
Claimant: Appellant (4)**

Section 96.5(1) – Quit
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant, Rhonda Cash, filed an appeal from a decision dated January 29, 2008, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on March 31, 2008. The claimant participated on her own behalf. The employer, Hope Haven, provided a telephone number to the Appeals Section. That number was dialed at 10:01 a.m. and the only response was a voice mail which was clearly identified as belonging to the employer's witness. A message was left indicating the hearing would proceed without the employer's participation unless a representative contacted the Appeals Section at the toll-free number prior to the close of the record. By the time the record was closed at 10:34 a.m. the employer had not responded to the message and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.. Exhibit D-1 was admitted into the record.

ISSUE:

The issue is whether the appeal is timely and whether she quit without good cause attributable to the employer.

FINDINGS OF FACT:

A decision was mailed to the claimant's last-known address of record on January 29, 2008. The claimant did not receive the decision.

Rhonda Cash was employed by Hope Haven from February 3, 2000 until July 11, 2007, as a part-time support community living aide. She was on vacation in late June and early July 2007, when a child abuse investigation was begun on a co-worker. The employer notified all the staff they were not to discuss this matter until Hope Haven had concluded an internal investigation. The claimant assumed this meant she was not going to be allowed to discuss the matter with the law enforcement agency or the DIA and quit.

Ms. Cash was employed full time with North Iowa Community Action since 2005, and continues working for the employer after her separation from Hope Haven. She filed a claim for unemployment benefits with an effective date of December 23, 2007.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6-2 provides in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The claimant did not receive the disqualifying decision and did not file an appeal until she received the overpayment decision. Her appeal shall be accepted as timely.

Iowa Code section 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant quit her employment with Hope Haven without good cause attributable to the employer. She assumed the employer was ordering her not to discuss the child abuse allegation with DIA or law enforcement but there is no evidence of this. The staff were merely being asked not to discuss the matter until an internal investigation was concluded. From other testimony given by the claimant it is apparent the DIA did do a full and thorough investigation on the matter and staff were not in any way prohibited from giving statements to the appropriate agencies. The claimant erroneous assumptions do not constitute good cause attributable to the employer for quitting.

This is a disqualifying separation but she had requalified by continuing to work for her regular employer.

DECISION:

The decision of the representative dated January 29, 2008, reference 01, is modified in favor of the appellant. Rhonda Cash is qualified for benefits, provided she is otherwise eligible. However, the account of Hope Haven will not be charged with benefits paid to the claimant.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css