

**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**

**DENOVA A ERICKSON
823 E 26TH ST
DES MOINES IA 50317**

**WELLS FARGO BANK
C/O TALX EMPLOYER SERVICES
PO BOX 1160
COLUMBUS OH 43216-1160**

**Appeal Number: 05A-UI-06629-DWT
OC: 05/29/05 R: 02
Claimant: Respondent (2)**

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
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Wells Fargo Bank (employer) appealed a representative's June 14, 2005 decision (reference 01) that concluded Denova A. Erickson (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 13, 2005. The claimant participated in the hearing. Brandon Martin appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits, or did the employer discharge her for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on September 20, 2004. The claimant worked as a full-time mortgage specialist. Martin was her supervisor. The claimant's last day of work was May 21, 2005.

The claimant submitted a request for FMLA because of complications with her pregnancy. On May 27, 2005, Mr. Martin learned the claimant was not eligible for FMLA because she had not worked a year for the employer. The employer then asked the claimant to submit documentation for short-term disability. The claimant submitted the appropriate paperwork.

The claimant established a claim for unemployment insurance benefits during the week of May 29, 2005. On June 15, 2005, the employer denied the claimant's request for short-term disability. Sometime prior to June 15, the claimant participated in an unemployment insurance fact-finding interview. On June 14, a representative issued a decision that the employer had discharged the claimant for nondisqualifying reasons. The employer had not participated in the fact-finding interview.

The employer and claimant talked on June 15, 2005. During this conversation, the employer advised the claimant to submit a medical form from her doctor to the human resource department in an attempt to get an approved leave of absence or submit a release to return to work. The employer indicated the claimant needed to do this by July 1, 2005.

As of June 15, 2005, the claimant still experienced medical problems with her pregnancy. Based on the June 14, 2005 decision, the claimant assumed the employer discharged her and did not contact the employer or provide any of the requested medical forms.

The claimant was released to return to work on June 29, 2005. The claimant did not contact the employer after she was released to work.

The claimant filed claims for the weeks ending June 4 through July 9, 2005. She received a total of \$1,905.00 in benefits for these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. The claimant initially requested a medical leave of absence sometime between May 21 and 27. Even though the claimant was not eligible for FMLA, the employer asked her to submit paperwork for short-term disability. After the claimant's request for short-term disability was denied, the employer asked the

claimant to submit medical documentation so the employer could consider an approved leave of absence.

The claimant's assumption that she had been discharged because a representative's June 14, 2005 decision stated so was not reasonable since she had either talked to the employer just before or after she received this decision. Even when the claimant could return to work on June 29, 2005, she failed to contact the employer. Based on all these factors, the claimant abandoned her job as of July 3, 2005, by failing to submit requested documentation for an approved medical leave and by failing to contact the employer when she was medically able to return to work. As of May 29, the claimant is not eligible to receive benefits because a leave of absence is considered a voluntary employment separation. 871 IAC 24.22-j. The claimant then voluntarily quit her employment as of July 3, 2005 when she failed to contact the employer when she was released to return to work.

When a claimant quits she has the burden to establish she quit with good cause attributable to the employer. Iowa Code §96.6-2. The claimant established personal reasons for quitting her employment as of July 3, 2005. Her reasons for quitting do not, however, qualify her to receive unemployment insurance benefits. As of May 29, 2005, the claimant is not eligible to receive benefits and as of July 3, 2005, the claimant is not qualified to receive benefits because she abandoned her job for reasons that do not qualify her to receive unemployment insurance benefits.

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code §96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending June 4 through July 9, 2005. The claimant has been overpaid \$1,905.00 in benefits she received for these weeks.

DECISION:

The representative's June 14, 2005 decision (reference 01) is reversed. The claimant is not eligible to receive benefits as of May 29, 2005 because she voluntarily separated her employment by requesting a leave of absence. When the claimant was medically able to return to work, she voluntarily quit her employment by abandoning her employment or by failing to contact the employer. The claimant is disqualified from receiving unemployment insurance benefits as of May 29, 2005. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive unemployment insurance benefits during the weeks ending June 4 through July 9, 2005. The claimant has been overpaid a total of \$1,905.00 in unemployment insurance benefits.

dlw/pjs