

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMANDA J LAUGHLIN
Claimant

APPEAL NO. 07A-UI-04726-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**EAST PENN MANUFACTURING CO INC
DEKA BATTERIES**
Employer

**OC: 04/08/07 R: 03
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated April 30, 2007, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 24, 2007. Employer participated by David Nabozny, Policy Development and Communication Advisor, Daryl Cook, Manager A. Claimant failed to be available at the number provided did not participate. Exhibits One and A were admitted into evidence.

Claimant called after the hearing was over to request participation. Claimant was waiting for the conference call with her cellular telephone. Claimant was in her car waiting. Claimant waited 15 minutes before calling in to see why she had not been called. Claimant was called two times at the top of the hour with no answer. Claimant proceeded to drive out of town to get better reception for the call. Claimant delayed calling in until after the hearing was already over. Claimant did not heed the warning that she should call within five minutes if not called at the time of hearing. Claimant knew that she had reception issues close to home but did not drive out of town to receive the call. Claimant took the chance that two bars would be sufficient reception.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on April 5, 2007. Claimant was reprimanded and suspended from work April 5, 2007. Claimant was to return to work April 12, 2007. Claimant never came in or called after April 12, 2007. Claimant was warned that further policy violations would result in discharge. Claimant was let go after two no-call absences.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of job abandonment. Claimant failed to return to work after a reprimand. This is a quit for personal reasons. Benefits withheld.

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.

871 IAC 24.25(28) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(28) The claimant left after being reprimanded.

871 IAC 26.14(7) provides:

(7) If a party has not responded to a notice of telephone hearing by providing the appeals section with the names and telephone numbers of its witnesses by the scheduled time of the hearing, the presiding officer may proceed with the hearing.

a. If an absent party responds to the hearing notice while the hearing is in progress, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If a party responds to the notice of hearing after the record has been closed and any party which has participated is no longer on the telephone line, the presiding officer shall not take the evidence of the late party. Instead, the presiding officer shall inquire as to why the party was late in responding to the notice of hearing. For good cause shown, the presiding officer shall reopen the record and cause further notice of hearing to be issued to all parties of record. The record shall not be reopened if the presiding officer does not find good cause for the party's late response to the notice of hearing.

c. Failure to read or follow the instructions on the notice of hearing shall not constitute good cause for reopening the record.

At issue is a request to reopen the record made after the hearing had concluded. The request to reopen the record is denied because the party making the request failed to participate by reading and following the instructions on the hearing notice.

Claimant's delay in calling the appeals bureau after not receiving the call is the cause for nonattendance. Claimant had plenty of time to call prior to the end of hearing had she immediately called within five minutes of the start of the hearing. Instead, claimant waited 15 minutes, until the hearing was over to start calling in. Furthermore, claimant knew she had bad reception at her home and did not drive to a better area until after she had already missed the call. This is not good cause to reopen the record.

DECISION:

The decision of the representative dated April 30, 2007, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css