

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

CHRISTINE REB
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SIN PRAIRIE WI 53539

FLEET & FARM SUPPLY CO OF
WEST BEND INC
D/B/A MILLS FLEET FARM
512 LAUREL ST
PO BOX 5055
BRainerd MN 56401

Appeal Number: 04A-UI-11189-SWT
OC: 09/19/04 R: 12
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:

The claimant appealed an unemployment insurance decision dated October 8, 2004, reference 01, that conclude she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was originally held on November 8, 2004, with Dave Bush participating on behalf of the employer, but the hearing was reopened because the claimant was experiencing phone problems beyond her control that prevented her from participating. A new telephone hearing was held on November 19, 2004. The parties were properly notified about the hearing. The claimant participated in the hearing. Ron Hengesteg participated in the hearing on behalf of the employer with a witness, Jerry Wittnebel.

FINDINGS OF FACT:

The claimant worked part-time as a cashier for the employer from August 25, 2003 to December 31, 2003. The claimant was informed and understood that under the employer's

work rules, employees were required to notify the employer if they were not able to work as scheduled.

The claimant called in sick on January 1, 2, and 5, 2004. She went to the doctor on January 7 and was diagnosed with pneumonia. The doctor provided the claimant with a medical statement excusing her from working from January 1 through January 18. As a result, the employer scheduled her to work next on January 24 and 25. The claimant was unaware that she was scheduled to work on January 24 and 25 because she did not check with the employer about her schedule. The employer did not receive any medical documentation excusing the claimant from work after January 18 or any documentation imposing restrictions on the claimant. On January 31, 2004, the claimant called the employer and stated that she was resigning due to health problems. The claimant felt that the cold conditions near the register were causing her health problems.

There is no medical evidence in the record to prove the claimant's health problems were caused or aggravated by the employment or that the claimant was advised to leave employment due to working conditions.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer.

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.

The unemployment insurance law provides that an individual is qualified to receive benefits if she: (1) left employment because of illness, injury or pregnancy with the advice of a licensed and practicing physician, (2) notified the employer that she needed to be absent because of the illness or injury, and (3) offered to return to work for the employer when recovery was certified by a licensed and practicing physician, but her regular work or comparable suitable work was not available. Iowa Code section 96.5-1-d.

The unemployment insurance rules also provide that a claimant is qualified to receive benefits if compelled to quit employment due to a health condition attributable to the employment. The rules require a claimant: (1) to present competent evidence that conditions at work made it impossible to continue in employment due to a serious health danger and (2) to inform the employer before quitting of the work-related health condition and that she intends to quit unless the problem is corrected or condition is reasonably accommodated. 871 IAC 24.26(6)b.

The evidence fails to establish that the claimant is eligible to receive benefits under either Iowa Code section 96.5-1-d or 871 IAC 24.26(6)b. She left employment for health reasons, but there is no competent medical evidence that she left work with the advice of her physician or that working conditions made it impossible to continue in employment due to a serious health danger.

DECISION:

The unemployment insurance decision dated October 8, 2004, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

saw/kjf