

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

KRISTI D BACHOF
602 E EUCLID AVE
INDIANOLA IA 50125

DOLGENCORP INC
DOLLAR GENERAL
c/o COMP TAX MGR
PO BOX 43150
LOUISVILLE KY 40232

Appeal Number: 04A-UI-08644-DWT
OC: 07/04/04 R: 02
Claimant: Appellant (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 are 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 96.5-2 – Employment Separation

STATEMENT OF THE CASE:

Kristi D. Bachof (claimant) appealed a representative's August 4, 2004 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Dolgencorp, Inc. (employer) would not be charged because the claimant had voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 1, 2004. The claimant participated in the hearing. The employer failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which the employer's representative/witness could be contacted to participate in the hearing. As a result, no one represented the employer. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits, did the employer discharge her for work-connected misconduct or was the claimant on a temporary layoff?

FINDINGS OF FACT:

The claimant started working for the employer on September 20, 2003. She worked full time on third shift. On June 30, 2004, the employer informed the claimant and other employees that their store was closing. The claimant agreed to work part time until the new store opened.

The claimant established a claim for unemployment insurance benefits during the week of July 4, 2004. She established a claim so she could file for partial benefits. The new store opened on August 3, 2004. The claimant returned to work full time at the new store as an assistant manager.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. The facts establish that the claimant did not quit and the employer did not discharge her. Instead, the claimant's store closed and she worked part-time for the employer until the employer's new store opened and the claimant returned to working full time. For unemployment insurance purposes, the employer initiated the claimant's "partial" unemployed status from July 1 through August 3, 2004.

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The reasons for the claimant's partial unemployed status have nothing to do with the claimant. The claimant did not commit work-connected misconduct. Therefore, as of July 4, 2004, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's August 4, 2004 decision (reference 01) is reversed. The claimant did not voluntarily quit her employment. Instead, the employer closed the claimant's store and reduced her hours from July 1 through August 3, until the new store opened. The reasons for the claimant's partial unemployed status do not disqualify the claimant from receiving benefits. As of July 4, 2004, the claimant is eligible to receive unemployment insurance benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/tjc