

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

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FORT MADISON IA 52627-2629

TARGET CORPORATION
c/o TALX USM SERVICES INC
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 06A-UI-06886-ET
OC: 06-04-06 R: 04
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, 2nd 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 Leaving

STATEMENT OF THE CASE:

The claimant appealed from a representative's decision dated June 22, 2006, reference 01, that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 26, 2006. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the claimant's last-known address of record on June 22, 2006. The claimant received the decision July 3, 2006. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by

July 2, 2006. That date fell on a Sunday, so the appeal was not due until July 3, 2006, the date on which the claimant filed her appeal. The claimant believes she had the letter to the post-office on July 3, 2006, and consequently her appeal was on time. Because the administrative law judge has no way of knowing whether the claimant received the representative's decision in a timely manner she must rely on the claimant's testimony. For those reasons the administrative law judge finds the claimant's appeal is timely.

The second issue is whether the claimant was discharged for misconduct or voluntarily left her employment. The claimant was employed as a full-time overnight folder for Target from November 29, 2004, to May 8, 2006. The claimant met a man in Burlington, Iowa, and began making a 400-mile round trip every weekend. She asked Target in Des Moines if she could transfer to the Target in Burlington and was told yes by both the Des Moines and Burlington locations, but the paperwork was never done and after waiting five months the claimant left her position. The Burlington manager had told her it had plenty of openings and just needed the transfer paperwork. Without the paperwork the claimant would have had to start over as far as seniority, vacation, etc. were concerned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment with 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.

871 IAC 24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

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. 871 IAC 24.25. Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(21). Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. The 76-year-old claimant found a boyfriend in Burlington and, consequently, she wanted to move closer to him. The claimant did everything she could to secure a transfer from the Des Moines store to the Burlington store but the paperwork was

never completed by the store, even though the Des Moines store agreed she could go and the Burlington store agreed she could have a position there. Inasmuch as the claimant relied on promises from both the Des Moines Target as well as the Burlington Target in making her decision to leave, she has demonstrated her leaving was for good cause attributable to the employer. The claimant has met her burden of proving her leaving was for good cause attributable to the employer as defined by Iowa law. Therefore, benefits are allowed.

DECISION:

The June 22, 2006, reference 01, decision is reversed. The claimant voluntarily left employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

je/kjw