

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

DANIKA NIETO  
3707 JACKSON ST  
SIOUX CITY IA 51104-2041

BELLE TOUCHE'  
2500 GLENN AVE STE 75  
SIOUX CITY IA 51106

Appeal Number: 06A-UI-06904-BT  
OC: 06/11/06 R: 01  
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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Belle Touche' (employer) appealed an unemployment insurance decision dated July 3, 2006, reference 01, which held that Danika Nieto (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 27, 2006. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which she could be contacted, and therefore, did not participate. The employer participated through Cheri Cosgrove, Lisa Pfeifle and Attorney Frank Cosgrove. Employer's Exhibits One through Three were admitted into evidence.

#### FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time stylist from March 4, 2004 through the latter part of 2005, when she went part-time due to complications with her pregnancy. In approximately March 2006, the claimant could no longer work due to non-work-related medical reasons. The employer issued new contracts to its employees, including the claimant, in April 2006. The employer repeatedly tried to reach the claimant to find out when she would be returning to work, but she did not return the calls. The employer finally set up a meeting with the claimant, and in response she called the employer on May 24, 2006 to state she would not be returning to work. The claimant said she was getting out of the hair business and wanted time off to be with her new baby. She also mentioned she was advised not to sign the contract because of changes in it. There were only three slight modifications between the 2005 and 2006 contracts, and they effectively had no effect on the claimant.

The claimant filed a claim for unemployment insurance benefits effective June 11, 2006 but has not received benefits after the separation from employment.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant left her employment in March 2006 due to a non-work-related medical condition. Prior to returning to work on May 24, 2006, the claimant advised her employer she would not be returning due to personal reasons. After that announcement, the claimant mentioned that she did not want to sign the new contract, which only had minor modifications.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden and benefits are denied.

#### DECISION:

The unemployment insurance decision dated July 3, 2006, reference 01, is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. There is no overpayment as a result of this decision.

sda/kjw