

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

DAWN C GRAY
216 S LOUISIANA AVE
MASON CITY IA 50401

WOODHARBOR MOLDING & MILLWORK
3277 – 9TH ST SW
MASON CITY IA 50401

Appeal Number: 05A-UI-07414-DWT
OC: 08/22/05 R: 02
Claimant: Appellant (4)

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:

Dawn C. Gray (claimant) appealed a representative's July 14, 2005 decision (reference 04) that concluded she was not qualified to receive unemployment insurance benefits and the account of Woodharbor Molding & Millwork, Inc. (employer) would not be charged, because the claimant 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 August 4, 2005. The claimant participated in the hearing. Laurie Nelson, a human resource assistant, and Darwin Neuman, the claimant's supervisor, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, 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 do not qualify her to receive unemployment insurance benefits, or did the employer suspend or discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on March 28, 2005. The employer hired the claimant to work as a full-time coat sander. New employees must satisfactorily complete a 90-day probationary period.

On May 31, 2005, the claimant hurt her back when she fell at work. The claimant reported her injury to the lead person and went home early that night. The claimant went to a doctor the next morning. The doctor restricted the claimant from working until June 5. The claimant worked as scheduled on June 5 and 6.

When the claimant reported to work on June 7, Neuman told her she was suspended for missing too much work. The claimant was absent from work on April 13 and May 5. The claimant wanted time off on May 12 to be with her daughter at the hospital. Neuman did not know how long the claimant would be suspended and told her to contact Nelson.

After suspending the claimant, the employer reviewed her absences. Nelson left a message for the claimant at her residence and on her son's phone telling the claimant to report to work on June 9. The claimant did not receive either of these messages. On June 12, the claimant and Nelson talked. When the employer discovered the claimant had not received the earlier message for her to report to work on June 9, Nelson told the claimant she should report to work on June 13. Nelson also told the claimant she would be receiving her 90-day evaluation shortly after she returned to work and should not expect a good evaluation, because of her attendance issues.

The claimant did not report to work on June 13, because she did not believe the employer had treated her fairly and concluded the employer would discharge her for unsatisfactory work performance and poor attendance during her probationary period. The claimant did not report to work or call the employer on June 13, 14 or 15. When the claimant did not report to work for three consecutive days, the employer concluded she had quit. On June 16, 2005, the claimant informed the employer she had quit and another person returned the claimant's employee handbook and safety glasses.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause, or is discharged or suspended for work-connected misconduct. Iowa Code §§96.5-1, 2-a. The claimant made the decision to quit her employment by failing to report to work on June 13 or any other day. When a claimant quits, she has the burden to establish she quit with good cause attributable to the employer. Iowa Code §96.6-2.

The law presumes a claimant has voluntarily quit her employment without good cause when she quits after receiving a reprimand. 871 IAC 24.25(28). The claimant quit after the employer suspended her for attendance issues. The claimant also presumed the employer would either discharge her for failing her probationary period or would discipline her again for attendance

issues, which the claimant did not consider fair. The claimant decided she would not continue working for the employer and quit her employment on June 13.

The claimant established personal reasons for quitting. She did not establish good cause for quitting on June 13. Therefore, as of June 12, the claimant is not qualified to receive unemployment insurance benefits. The claimant is eligible to receive unemployment insurance benefits for the weeks ending June 11, 2005 because the employer suspended her for reasons that do not constitute work-connected misconduct.

DECISION:

The representative's July 14, 2005 decision (reference 04) is modified in the claimant's favor. The claimant is eligible to receive benefits for the week ending June 11, 2005, because the employer suspended her this week for reasons that do not amount to work-connected misconduct. The claimant voluntarily quit her employment on June 13 for reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of June 12, 2005. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

dlw/kjw