

**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**

**BERNADETTE M YANDA
1507 – 34TH ST NE
CEDAR RAPIDS IA 52402**

**TOYOTA MOTOR CREDIT CORP
C/o TALX UCM SERVICES INC
PO BOX 283
ST LOUIS MO 63166 0283**

**Appeal Number: 04A-UI-11963-DWT
OC: 10/10/04 R: 03
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 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 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Bernadette M. Yanda (claimant) appealed a representative's October 28, 2004 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Toyota Motor Credit Corporation (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 December 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 unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer in April 1999. The claimant worked as a full-time customer service representative.

The claimant was on a medical leave from January through May 2004. After the claimant returned to work, her work performance did not meet the employer's standards. Prior to her medical leave, the claimant's work performance was satisfactory.

The claimant had a new supervisor assigned to her in July 2004. After her medical leave ended the employer talked to the claimant about her unsatisfactory work performance. On September 1, 2004, the employer talked to the claimant for the third time about her job performance and how she needed to improve. The employer agreed the claimant would sit with another representative who met the employer's job performance guidelines and learn how to meet her job performance requirements. During the September 1, 2004 meeting the claimant told her supervisor she was trying to transfer to another department and looking for another job because she knew she was not meeting the employer's standards. The claimant understood her supervisor would not repeat any of the claimant's statement to anyone else.

On September 3, the manager talked to the claimant. The claimant understood her supervisor told the manager about their September 1 conversation. The manager told the claimant that if she were so unhappy with her job, the employer would accept her resignation. The claimant was surprised by this comment and asked for time to think before she made any decision. The employer gave her time. Over the weekend the claimant thought about the job and the fact her supervisor did not keep the September 1 conversation confidential. On September 7 the claimant resigned as of September 15, 2004. The claimant's last day of work was September 15, 2004.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. The claimant voluntarily quit her employment when she submitted her resignation on September 7, 2004. Even though the claimant felt the employer forced her to resign by indicating the employer would accept her resignation, the claimant made the decision to resign instead of continuing her employment. The facts do not establish the employer would not allow the claimant to continue her employment. Since the claimant worked another week after submitting her resignation, the evidence indicates the employer would have allowed the claimant to continue her employment if she had not submitted her resignation.

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 voluntarily quits without good cause when she leaves employment when her job performance is not satisfactory and there is continuing work available for the claimant. 871 IAC 24.25(33).

The facts establish the claimant quit her employment for compelling personal reasons. The claimant did not establish she quit for reasons that qualify her to receive unemployment insurance benefits. As of October 10, 2004, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's October 28, 2004 decision (reference 01) is affirmed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of October 10, 2004. 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 for any benefits paid to the claimant.

dlw/tjc