

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**SHANNON L LOCKARD**  
Claimant

**APPEAL NO. 07A-UI-09489-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GENERAL NUTRITION CENTER INC**  
Employer

**OC: 08/05/07 R: 03  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit  
Section 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated August 31, 2007, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on October 23, 2007. Claimant participated. Employer participated by Marty Young, Hearing Representative, TALX, with witness Colleen Bartlett, Store Manager. Exhibits A was admitted into evidence.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer. The second issue is whether the appeal is timely.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant last worked for employer on March 29, 2007. Claimant did not receive the August 31, 2007 decision until just two days prior to the hearing. Claimant only received a decision on overpayment. Claimant promptly appealed the overpayment decision and thereby appealed the decision marked reference number 01.

Claimant quit because she was not getting 23 hours per week. Claimant was hired part time. Claimant asked the employer to grant 23 hours per week. Claimant missed a lot of work for various reasons. Claimant missed a day every other week. Claimant did not get the 23 hours per week promised by employer in paperwork given to the department of human services.

## **REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of insufficient hours. Claimant was hired part time. Claimant was not given a guarantee of hours. Furthermore, the lack of work hours was often due to claimant's chronic absenteeism. This is a quit for personal reasons. Benefits withheld.

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.

Claimant's appeal is timely, as claimant did not receive the decision. Claimant filed the appeal promptly upon notice of an adverse decision by means of the overpayment decision.

Iowa Code section 96.6-2 provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

**DECISION:**

The decision of the representative dated August 31, 2007, reference 01, is affirmed. Claimant's appeal is timely. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

mdm/kjw