

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

KAYLA C NICHOLS
824 W ORANGE RD
WATERLOO IA 50701

TARGET-DIV OF DAYTON HUDSON CORP
c/o TALX UC EXPRESS
PO BOX 66749
ST LOUIS MO 63166 6749

Appeal Number: 05A-UI-04977-DWT
OC: 04/10/05 R: 03
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, 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
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Target-Division of Dayton Hudson Corporation (employer) appealed a representative's April 25, 2005 decision (reference 01) that concluded Kayla C. Nichols (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 31, 2005. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which she could be contacted to participate in the hearing. As a result, no one represented the claimant. Amy Mosley, a human resource technician, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits, or did the employer discharge her for disqualifying reasons?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on May 20, 2004. The claimant worked as a full-time warehouse worker. The claimant's last day of work was January 24, 2005. After January 25, the claimant called in sick.

On February 7, the employer talked to the claimant and told her she needed to pick up papers to complete for Family Medical Leave (FMLA) by February 9. The claimant needed to complete the necessary paperwork to see if her absences would be covered under FMLA. The claimant did not pick up the necessary papers by February 9.

The claimant did not call or report to work on February 12, 13 or 14. On February 15, 2005, the employer sent the claimant a certified letter indicating her employment was terminated because the employer considered her to have voluntarily quit when she failed to work or call the employer for three consecutive days. The certified letter was returned to the employer because no one picked it up for the claimant. The claimant has not contacted the employer any time after February 7, 2005.

The claimant established a claim for unemployment insurance benefits during the week of April 10, 2005. She filed claims for the weeks ending April 16 through 30, 2005. The claimant received her maximum weekly benefit amount of \$310.00 for each of these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. The evidence indicates the claimant initiated her separation by failing to pick up paperwork for FMLA leave and for failing to keep in contact with the employer after February 7, 2005. For unemployment insurance purposes, the claimant voluntarily quit her employment. When a claimant quits, she has the burden to establish she quit with good cause attributable to the employer. Iowa Code §96.6-2.

When the claimant did not contact the employer any time after February 7, the facts indicate she abandoned her job. While the claimant may have had compelling personal reasons for doing this, she did not establish that she quit for reasons that qualify her to receive unemployment insurance benefits. Therefore, as of April 10, 2005, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code §96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending April 16 through 30, 2005. The claimant has been overpaid a total of \$930.00 in benefits she received for these weeks.

DECISION:

The representative's April 25, 2005 decision (reference 01) is reversed. The claimant voluntarily quit her employment by abandoning it after February 7, 2005. The claimant is disqualified from receiving unemployment insurance benefits as of April 10, 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. The claimant is not legally entitled to receive benefits for the weeks ending April 16 through 30, 2005. The claimant has been overpaid and must repay \$930.00 in benefits she received for these weeks.

dlw/s