

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

JENNIFER M LEANDER  
2725 W 34<sup>TH</sup> ST  
DAVENPORT IA 52806-5101

AMERICAN TV & APPLIANCE INC  
2404 W BELTLINE HWY  
MADISON WI 53713

Appeal Number: 06A-UI-07908-HT  
OC: 07/09/06 R: 04  
Claimant: Respondent (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, 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) – Quit

STATEMENT OF THE CASE:

The employer, American TV & Appliance, Inc. (American), filed an appeal from a decision dated August 2, 2006, reference 01. The decision allowed benefits to the claimant, Jennifer Leander. After due notice was issued, a hearing was held by telephone conference call on August 22, 2006. The claimant did not provide a telephone number where she could be contacted and did not participate. The employer participated by Human Resources Manager Ann Jackson and General Manager Mike Kapets.

## FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Jennifer Leander was employed by American from November 16, 2004 until June 16, 2006. She was a full-time sales associate.

On May 28, 2006, Ms. Leander gave a verbal resignation to the employer. A few days later she submitted a written resignation stating only that her last day of work would be July 2, 2006. She indicated she was quitting in order to work part-time for another employer so she could go to school.

On June 16, 2006, the claimant was advised by Human Resources Manager Ann Jackson and General Manager Mike Kapets that the employer's policy was to allow employees to work only two weeks after a resignation. Mr. Kapets and Ms. Jackson informed her the employer was accepting her resignation effective immediately.

## REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant quit work for reasons which would disqualify her from receiving unemployment 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.

871 IAC 24.25(38) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

The claimant's stated reason for quitting was to take other employment and go back to school. These do not constitute good cause attributable to the employer for quitting under the provisions of Iowa Administrative Code section 871 IAC 24.25(6). However, her proposed date of separation was July 2, 2006, and the employer elected to "accept her resignation" two weeks before that. The record does not establish any misconduct on the part of the claimant which would have precipitated a discharge two weeks prior to the proposed effective date of the

resignation. Under the provisions of the above Administrative Code section, Ms. Leander would be eligible for benefits until the week ending July 1, 2006. After that date she would be disqualified

DECISION:

The representative's decision of August 2, 2006, reference 01, is modified in favor of the appellant. Jennifer Leander would be eligible for benefits from June 16 to July 1, 2006. After that she is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

bgh/cs