

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMY KINGERY
Claimant

APPEAL NO. 07A-UI-09249-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS FARGO BANK NA
Employer

OC: 08/26/07 R: 02
Claimant: Appellant (1)

Section 96.1 – Quit

STATEMENT OF THE CASE:

The claimant, Amy Kingery, filed an appeal from a decision dated September 18, 2007, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on October 16, 2007. The claimant participated on her own behalf. The employer, Wells Fargo, participated by Ely Stover.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Amy Kingery was employed by Wells Fargo from October 24, 2006 until August 10, 2007, as a full-time operations processor. She had been placed on an informal performance improvement plan in April 2007 for 60 days. Some of the goals were met and others were not. On June 13, 2007, she was placed on a formal performance improvement plan for another 60 days.

Her progress was reviewed with her on July 18, 2007, and she was told she was not meeting the standards. On July 27, 2007, she submitted a resignation letter and two-week notice stating she was going to pursue other career opportunities. She feared she would be fired because her error rate had not improved as of the July 18, 2007, meeting.

REASONING AND CONCLUSIONS OF LAW:

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(28) 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:

(28) The claimant left after being reprimanded.

The claimant quit because she feared her performance would not improve to the point where she would be able to meet the expectations. It was her decision to resign rather than wait until August 13, 2007, to discover whether she had met the expectations. This does not constitute good cause attributable to the employer and the claimant is disqualified.

DECISION:

The representative's decision of September 18, 2007, reference 01, is affirmed. Amy Kingery is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css