

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELODEE OWENS
Claimant

APPEAL NO. 07A-UI-02867-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

DILLARDS INC
Employer

**OC: 02-04-07 R: 12
Claimant: Appellant (4)**

Section 96.5-1 – Voluntary Leaving/Requalification
871 IAC 24.25(2) – Voluntary Quit to Move

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 14, 2007, reference 04, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 6, 2007. The claimant participated in the hearing. Tammy Dill, Sales Associate, participated in the hearing on behalf of the employer. Employer's Exhibit One was admitted into evidence.

ISSUE:

The issue is whether the claimant voluntarily left her employment to move.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time sales associate for Dillard's from February 27, 2006 to March 27, 2006. She quit to relocate to Georgia with her daughter. She thought she would transfer but the employer's policy does not allow employees to transfer until they have worked for 90 days and meet their sales goals. The assistant store manager was not aware the claimant planned to move because she did not give a two-week notice but failed to call or show up to work her scheduled shifts March 23, 24 and 27, 2007. Continued work was available.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer but has requalified for 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(2) 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:

(2) The claimant moved to a different locality.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6(2). While the claimant's decision to quit to move to another area was based upon good personal reasons it was not a good-cause reason attributable to the employer for leaving. However, the administrative law judge further concludes from information contained in the administrative record that the claimant has requalified for benefits since the separation from the employer. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The March 14, 2007, reference 04, decision is modified in favor of the claimant. The claimant voluntarily left her employment without good cause attributable to the employer but has requalified for benefits since the separation. Consequently, benefits are allowed provided the claimant is otherwise eligible. The employer's account shall not be charged.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css