

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

ERIN E MILLER
2574 – 250TH ST
FREDERICKSBURG IA 50630

OMEGA CABINETS LTD
1205 PETERS DR
WATERLOO IA 50703

Appeal Number: 05A-UI-06535-DWT
OC: 05/22/05 R: 03
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Erin E. Miller (claimant) appealed a representative's June 15, 2005 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Omega Cabinets Ltd. (employer) would not be charged because the claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 11, 2005. The claimant participated in the hearing. The employer responded to the hearing notice, but the employer's witness was not available for the hearing. A message was left for the employer's witness to contact the Appeals Section.

The employer's witness attempted to call the Appeals Section at 8:05 a.m. Instead of anyone answering the employer's phone call, the employer's witnesses received a recorded message that indicating it was July 4 and the office was closed. The employer continued his attempt to contact the Appeals Section and was unable to talk to anyone until 9:50 a.m. The employer

requested that the hearing be reopened. Based on the employer's request to reopen the hearing, the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is there good cause to reopen the hearing?

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on May 7, 2001. The claimant worked as a full-time production worker.

In early April 2005, the claimant told the employer she was quitting as of May 7, 2005, because she was moving to Missouri. The claimant decided to move to Missouri after her boyfriend accepted a job in Missouri. When the claimant gave the employer her resignation notice, she had contacted Kelly Services, an employment firm, and understood Kelly Services could assign her to a full-time job after she completed some paperwork. The claimant's last day of work for the employer was May 7, 2005.

The claimant started moving her personal property to Missouri. In June, the claimant's car broke down. As of July 11, 2005, the claimant does not have a vehicle. As a result, the claimant has not completed paperwork that Kelly Services requires and she still has some personal property remaining in Iowa. Since claimant has not completed paperwork at Kelly Services, she has not started working in Missouri.

REASONING AND CONCLUSIONS OF LAW:

If a party responds to a hearing notice after the record has been closed and the party who participated at the hearing is no longer on the line, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)(b) and (c). The evidence indicates that even though the employer was not available at 8:00 a.m. for the hearing, the employer's witness timely attempted to participate in the hearing. The employer unfortunately was prevented from participating in the hearing because the Appeals Section phone number prevented the employer's call from going through. Under these facts, the employer established good cause to reopen the hearing. However, as a result of the decision in this matter, which is based on the claimant's testimony, this hearing shall not be reopened.

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5-1. The claimant voluntarily quit her employment as of May 7, 2005. When a claimant quits, she has the burden to establish she quit with good cause attributable to the employer. Iowa Code § 96.6-2.

The facts establish the claimant moved to Missouri because her boyfriend accepted a job in Missouri and she wanted to be with him. While the claimant had been told she would be placed in a full-time job by an employment firm, Kelly Services, the claimant had not completed the necessary paperwork to be assigned to a job in Missouri. As a result, when the claimant resigned she did not have a job in Missouri she had accepted or even as of July 11, 2005. Iowa Code § 96.5-1-a does not apply in this case.

The law presumes a claimant voluntarily quits without good cause when she quits to relocate to a different locality. 871 IAC 24.25(2). The evidence establishes the claimant voluntarily quit her employment to move to Missouri. The claimant established a compelling personal reason for quitting. The claimant did not establish she quit her employment for a reason that qualifies her to receive unemployment insurance benefits. Therefore, as of May 22, 2005, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

Based on the decision in this matter, the employer's request to reopen the hearing is denied. The representative's June 15, 2005 decision (reference 01) is affirmed. The claimant voluntarily quit her employment for personal reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of May 22, 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.

dlw/sc