

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

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HEARTLAND EMPLOYMENT SERVICES  
c/o SHEAKLEY UNISERVICE INC  
PO BOX 1160  
COLUMBUS OH 43216-1160

Appeal Number: 04A-UI-02310-LT  
OC 01-18-04 R 03  
Claimant: Appellant (5)

**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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving  
Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the February 23, 2004, reference 01, decision that denied benefits due to an alleged discharge for misconduct. After due notice was issued, a hearing was held on March 22, 2004. Claimant did participate. Employer did participate through Ted Biderman and was represented by Robin Moore of Sheakley Uniservice. Claimant's Exhibits A, B and C were received. Employer's Exhibit One was received.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time activity assistant through January 9, 2003 when she quit. Her last

day worked was December 19. She had the flu beginning December 14 with a medical excuse in force until December 27, 2003 from her doctor's note dated December 22, 2003. She became upset with her supervisor and left the meeting. Another meeting was set for December 29 to discuss her return to work, her absence, and conduct over the phone with another employee. Claimant attended and did not clock in for the meeting even though employer normally pays for attendance at disciplinary meetings. She again left because she became upset at the meeting. She had heard rumors of her intended separation, but did not contact employer for confirmation or denial. Nor did she communicate with employer or the insurance company about her denial of coverage. Employer wrote her a letter on December 31 explaining that she had not been terminated and that unless she contacted employer by January 9, her termination papers would be formalized at that point. (Employer's Exhibit One) Claimant did not respond to the letter and her health insurance terminated on January 9, 2004 effective December 19, 2003, the last day worked. Her insurance was in force at the meeting on December 29.

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment without good cause attributable to the employer.

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.

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 (amended 1998). Generally, when an individual mistakenly believes they are discharged from employment, but were not told so by the employer, and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer.

Claimant had opportunities from December 29, 2003 through January 9, 2004 to preserve her employment but failed to do so. She acted upon rumor and assumption rather than direct communication with employer. This was a voluntary leaving of employment. Employer's testimony as to the date the insurance termination was processed on January 9, although effective December 19, is credible, as claimant could not state with any degree of certainty that she was notified of the insurance cancellation prior to January 9, 2004. Benefits are denied.

#### DECISION:

The February 23, 2004, reference 01, decision is modified with no change in effect. The claimant voluntarily left employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

dml/kjf