

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

ANGELA E MARTIN
APT 6
2798 WILLOW DR
BETTENDORF IA 52722

DILLARD DEPARTMENT STORES INC
c/o MS BILLIE TREAT
1600 CANTRELL RD
LITTLE ROCK AR 72201 1110

Appeal Number: 05A-UI-08088-DWT
OC: 10/17/04 R: 04
Claimant: Appellant (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, 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-a – Voluntary Quit for Other Employment

STATEMENT OF THE CASE:

Angela E. Martin (claimant) appealed a representative's July 25, 2005 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits and the account of Dillard Department Stores, Inc. (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 August 23, 2005. The phone number that was recorded by the Appeals clerical staff for the claimant was called. A message was left on the answering machine for the claimant to contact the Appeals Section immediately. Kristi Lebeck, the assistant store manager, appeared on the employer's behalf.

After the hearing had been closed and the employer had been excused, the claimant contacted the Appeals Section. When the administrative law judge contacted the claimant, the

administrative law judge discovered the claimant's phone number had not been properly recorded. The claimant made a request to reopen the hearing.

Based on the claimant's request to reopen the hearing, the evidence, the arguments of the parties, 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 established a claim for unemployment insurance benefits during the week of October 17, 2004. The claimant began working for the employer on January 25, 2005. The claimant worked as a full-time sales associate.

On May 27, 2005, the claimant gave the employer her written resignation indicating her last day of work would be June 10, 2005. The claimant resigned because she had accepted other employment. The claimant's last day of work was June 5, 2005. The claimant reopened her claim during the week of July 3, 2005.

The claimant responded to the hearing notice by contacting the Appeals Section to provide the phone number at which she could be contacted for the hearing. The Appeals staff did not correctly record the phone number. When the claimant finally talked to the administrative law judge, she requested that the hearing be reopened.

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 claimant established good cause to reopen the hearing because the Appeals Section made a mistake and did not record her phone number correctly. In this case, the administrative law judge is not going to reopen the hearing because based on the employer's testimony the claimant is qualified to receive benefits and the employer's account will not be charged. See the reasoning for this in the paragraphs below.

A claimant is not qualified to receive unemployment insurance benefits if a claimant voluntarily quits employment without good cause. Iowa Code §96.5-1. The law, however, provides that if a claimant voluntarily quits employment because the claimant has accepted other employment, the claimant will not be disqualified from receiving benefits and the employer's account will not be charged. Iowa Code §96.5-1-a. The facts establish the claimant quit her employment with

the employer only after she accepted other employment. Therefore, as of July 3, 2005, the claimant is qualified to receive unemployment insurance benefits, and the employer's account will not be charged.

DECISION:

The hearing in this matter will not be reopened. The representative's July 25, 2005 decision (reference 02) is modified in the claimant's favor. The claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits. As of July 3, 2005, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account will not be charged.

dlw/kjw