

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

LA'TASHA L TODD
316 EDWARDS ST
WATERLOO IA 500703

HCM INC
c/o TALK UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-11480-CT
OC: 10/02/05 R: 03
Claimant: Respondent (2)

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
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

HCM, Inc. filed an appeal from a representative's decision dated October 31, 2005, reference 01, which held that no disqualification would be imposed regarding La'Tasha Todd's separation from employment. After due notice was issued, a hearing was held by telephone at 11:00 a.m. on November 29, 2005. The employer participated by Christi Wedeking, Payroll Office. Ms. Todd responded to the notice of hearing but was not available at the number provided at the scheduled time of the hearing. She contacted the administrative law judge at 11:00 a.m. on November 30, 2005. She indicated she missed the hearing because she was attending the wake of a family member. She had not contacted the Appeals Section to advise that she would be unable to participate in the hearing. Although a message was left for her at the scheduled

time of the hearing, she did not return the call on November 29 because she did not check her messages until later in the evening. Ms. Todd did not call the first thing in the morning the following day. Because she took no steps to notify the Appeals Section beforehand that she would be unable to participate in the hearing, the administrative law judge declined to reopen the hearing record.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Todd began working for HCM, Inc. on October 26, 2004 as a full-time certified nursing assistant. She performed services at Cedar Falls Healthcare Center. On or about August 5, 2005, Ms. Todd contacted the director of nursing to advise that she was quitting because she was in protective custody. She submitted a new application for employment on October 28 but was not rehired.

Ms. Todd has received a total of \$1,162.00 in job insurance benefits since filing her claim effective October 2, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Todd was separated from employment for any disqualifying reason. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). The term "good cause attributable to the employer" generally refers to some matter over which the employer has control. In the case at hand, Ms. Todd quit for personal reasons as she was in protective custody. Although she may have had good personal cause for leaving her employment, the evidence failed to establish that her reason for leaving was attributable to the employer or the employment. Accordingly, she is not entitled to job insurance benefits.

Ms. Todd has received job insurance benefits since filing her claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated October 31, 2005, reference 01, is hereby reversed. Ms. Todd voluntarily quit her employment for no 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 job insurance benefit amount, provided she satisfies all other conditions of eligibility. Ms. Todd has been overpaid \$1,162.00 in job insurance benefits.

cfc/s