

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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1605 WHITE ST APT 3  
DUBUQUE IA 52001

APAC CUSTOMER SERVICES INC  
c/o TALX UC EXPRESS  
PO BOX 283  
ST LOUIS MO 63166 0283

Appeal Number: 05A-UI-07031-DWT  
OC: 06/12/05 R: 04  
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, 4<sup>th</sup> 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 Quit  
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

APAC Customer Services, Inc. (employer) appealed a representative's June 27, 2005 decision (reference 01) that concluded Eboni L. Coleman (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the employer discharged the claimant for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 27, 2005. The claimant participated in the hearing. Cory Nemmers, the operations manager, appeared on the employer's behalf. Based on 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:

Did the claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits, or did the employer discharge her for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer in April 2004. The claimant worked part time as a telephone sales representative.

When the employer sends an employee home due to a lack of work, the employee's attendance record is not affected. When the employer notices an attendance problem, the employer implements progressive discipline, such as verbal and written warnings, before an employee is discharged.

In early June 2005, the claimant was pregnant and in her first trimester. The claimant experienced morning sickness and some general discomfort from her pregnancy. There were days when the claimant did not feel well and her manager asked if she wanted to go home early. When the claimant did not feel well, she went home early. If an employee is unable to work because of an illness or other medical reasons, the employer does not require the employee to make up the "missed time" if the employee provides a doctor's statement verifying the need for the employee to be off work.

On June 10, 2005, the claimant again left work early. The claimant's manager told her that if she did not come in and work her hours, she could be discharged. The claimant did not go to work on Saturday, June 11, to make up any hours. The claimant did not return to work again. The claimant did not talk to anyone in management about the status of her employment after June 10, 2005.

The claimant was scheduled to work the week of June 13. When the claimant did not call or report to work this week, the employer concluded she had abandoned her employment. The employer no longer considered the claimant an employee as of June 17, 2005.

The claimant established a claim for benefits during the week of June 12, 2005. She filed claims for the weeks ending June 18 through July 23, 2005. The claimant received her maximum weekly benefit amount of \$117.00 for each of these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. The evidence does not establish that the employer discharged the claimant on June 10, 2005. Instead, the claimant's manager gave the claimant a warning that her job was in jeopardy or reprimanded the claimant for failing to work the hours the employer scheduled her to work when the employer had work for the claimant to do. The claimant's manager did not discharge the claimant on June 10, 2005.

The claimant incorrectly assumed she was discharged if she did not work her hours. The manager's remark upset the claimant because the claimant incorrectly assumed the employer expected her to make up time when the employer sent her home when there was not enough work for her to do. The claimant did not report to work the next week or talk to anyone in management about the status of her job. The claimant's failure to verify her assumption that she was discharged was correct by reporting to work or talking to anyone in management amounts to the claimant abandoning her employment. For unemployment insurance purposes, the claimant voluntarily quit her employment.

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 claimant did not establish that she quit for reasons that qualify her to receive unemployment insurance benefits. Therefore, as of June 12, 2005, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code §96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending June 18 through July 23, 2005. The claimant has been overpaid \$702.00 in benefits she received for these weeks.

DECISION:

The representative's June 27, 2005 decision (reference 01) is reversed. The employer did not discharge the claimant. Instead, the claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of June 12, 2005. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The claimant is not legally entitled to receive benefits for the weeks ending June 18 through July 23, 2005. The claimant has been overpaid and must repay \$702.00 in benefits she has received for these weeks.

dlw/kjf