

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

STACY A DOZIER
2914 E WASHINGTON #A
DES MOINES IA 50317-8649

SANDHU MINIMART LLC
1401 BUCHANAN ST
DES MOINES IA 50316

AMENDED
Appeal Number: 06A-UI-04718-CT
OC: 01/22/06 R: 02
Claimant: Respondent (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) – Voluntary Quit
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Sandhu Minimart filed an appeal from a representative's decision dated April 27, 2006, reference 02, which allowed benefits to Stacey Dozier but denied the employer relief from charges. After due notice was issued, a hearing was held by telephone on May 18, 2006. The employer participated by Ajai Agni, Accountant. Ms. Dozier did not respond to the notice of hearing.

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. Dozier was an employee of Oasis Wine and Spirits when the business was purchased by new owners and became known as Sandhu Minimart in October of 2005. Ms. Dozier was not working at the time due to a work-related injury. When she was able to work again in January of 2006, she began performing services for Sandhu Minimart.

Ms. Dozier was off work beginning February 11 and hospitalized until February 15 because of complications from her prior surgery. She had a hearing before an administrative law judge on April 11, 2006. The administrative law judge found that Ms. Dozier had not returned to work after her hospitalization but had been fully released by her doctor. The administrative law judge also found that Ms. Dozier did not return to work because she experiences pain from general work duties. Ms. Dozier has claimed benefits for each week beginning January 22 through May 20, 2006, but has not reported earnings for any week. She has received a total of \$2,880.00 in job insurance benefits since filing her claim.

REASONING AND CONCLUSIONS OF LAW:

The first issue in this matter is whether Ms. Dozier was separated from employment for any disqualifying reason. She has been released by her doctor to return to work but has not. For this reason, the administrative law judge concludes that she quit. 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 evidence of record does not establish any good cause attributable to the employer for Ms. Dozier's separation. There was no evidence that she was advised by a doctor to leave the employment due to residuals of her surgery. Inasmuch as there is no evidence of any cause attributable to the employer for the separation, it constituted a disqualifying event.

Ms. Dozier has not worked at all since filing her claim. She told the previous administrative law judge that she could not work because of pain. She did not participate in the hearing to explain the extent to which her pain prevents her from working. She did not participate in the hearing to establish that there is other work she can do in spite of whatever physical limitations she may have. Ms. Dozier failed to establish that she is able to work, available for work, and actively seeking work. Because she has failed to sustain her burden of proving that she satisfies the availability requirements of Iowa Code section 96.4(3), benefits are denied. Ms. Dozier was in the hospital from Saturday, February 11, through Wednesday, February 15, 2006. Because her inability to work started with that hospitalization, the administrative law judge concludes that benefits should be denied as of the week beginning February 12, 2006.

Ms. Dozier has received a total of \$2,340.00 in job insurance benefits between February 12 and May 13, 2006. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7). The overpayment results from her disqualifying separation and the fact that she has not satisfied the availability requirements of the law. Either issue would constitute a separate basis for establishing an overpayment.

DECISION:

The representative's decision dated April 27, 2006, reference 02, is hereby modified. Ms. Dozier was separated from Sandhu Minimart 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. Dozier is denied benefits effective February 12, 2006, because she did not satisfy the availability requirements of the law. Benefits are withheld until she satisfies Workforce Development that she is able to and available for work, provided she satisfies all other conditions of eligibility and is not otherwise disqualified. The claimant is overpaid \$2,340.00.

cfc/kkf/pjs