

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

STACEY A GERMAIN
Claimant

APPEAL NO. 07A-UI-01868-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DILLARDS INC
Employer

**OC: 01/21/07 R: 03
Claimant: Respondent (1)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The employer, Dillards, filed an appeal from a decision dated February 12, 2007, reference 01. The decision allowed benefits to the claimant, Stacey Germain. After due notice was issued a hearing was held by telephone conference call on March 12, 2007. The claimant participated on her own behalf. The employer participated by Operations Manager Sandy Grundmeyer.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Stacey Germain was employed by Dillards from July 18, 2005 until November 26, 2006, as a part-time sales associate in the shoe department. The claimant had failed to meet her sales goals for the last eight months of her employment and on November 26, 2006, her department manager spoke to her about it.

The claimant asked if she was going to be fired at the end of the month or whether she ought to quit right away and the department manager told her that it would “be the best thing” for her to quit now. Ms. Germain went to Operations Manager Sandy Grundmeyer and submitted a written resignation, checking the box which stated the reason as “going to school, moving out of the area or other,” and went back to work.

Later in her shift Ms. Grundmeyer approached her and stated she had spoken with the store manager and it was decided to backdate her resignation to November 11, 2006. This was done so it would appear as though she had given a two-week notice and she would be eligible to receive her accumulated vacation. The employer anticipated that when the sales reports would be generated the next week, she would have failed to meet her goal for the eighth month in a row and would be given a pay cut which would drop her below the minimum wage paid by Dillard’s, and would not be allowed to continue working.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.26(21) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

- (21) The claimant was compelled to resign when given the choice of resigning or being discharged. This shall not be considered a voluntary leaving.

The claimant resigned because she had been told by her department manager it would “be the best thing” since both were aware she had failed to meet her sales goal for the eighth month in a row, and this would result in discharge. The operations manager confirmed this after the claimant had submitted her resignation. Under the provisions of the above Administrative Code section, this constitutes good cause attributable to the employer for quitting. Benefits are allowed.

DECISION:

The representative's decision of February 12, 2007, reference 01, is affirmed. Stacey Germain is qualified for benefits, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs