

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

ANTHONY POMPO
909 GRAND AVE
MARION IA 52302

NORDSTROM INC
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-06548-ET
OC: 05-01-05 R: 03
Claimant: Appellant (1)

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 Leaving
Section 6.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant appealed from the June 7, 2005, reference 03, decision that denied benefits. After due notice was issued, a hearing was held before Administrative Law Judge Julie Elder on July 12, 2005. The claimant participated in the hearing. Robin Pospisil, Human Resources Manager; Corey Clark, Senior Team Leader; and Peg Heenan, Attorney; participated in the hearing on behalf of the employer. Department Exhibit D-1 and Employer Exhibit One were admitted into evidence.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant testified he received the representative's decision Saturday, June 18, 2005, the day after it was due and faxed his appeal in as soon as he received it. Consequently, the administrative law judge must conclude the claimant's appeal is timely.

The claimant was employed as a full-time personal shopper for Nordstrom from October 26, 2004 to December 14, 2004. On December 8, 2004, the claimant's team leader talked to him about his attendance and the claimant signed a final written warning. He then left early that day and called in sick December 9 and 10, and was a no-call/no-show December 13 and 14, 2004. The employer called the claimant and left a message December 14, 2004, but the claimant did not return the call. The employer sent the claimant a certified letter stating it considered him to have abandoned his job after not hearing from him December 14, 2004, and the letter was returned as undeliverable (Employer's Exhibit One).

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment without good cause attributable to the employer.

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.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant demonstrated his intent to quit and acted to carry it out when he left early and failed to return to work for at least four days after receiving a final written warning December 8, 2005. It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The administrative law judge concludes the claimant has not satisfied that burden. Benefits are denied.

DECISION:

The June 7, 2005, reference 03, decision is affirmed. The claimant's appeal is timely. He voluntarily left employment without good cause attributable to the employer. Benefits are denied until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

je/sc