

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

CHRISTINE A JACKSON
220 COTTAGE ST
WATERLOO IA 50703-3019

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

Appeal Number: 06A-UI-04931-CT
OC: 04/02/06 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:

Ferguson Enterprises, Inc. filed an appeal from a representative's decision dated April 27, 2006, reference 02, which held that no disqualification would be imposed regarding Christine Jackson's separation from employment. After due notice was issued, a hearing was held by telephone on May 24, 2006. The employer participated by Shawn Donahue, Facility Manager, and Deb Darnge, Human Resources Administrator. Exhibits One through Five were admitted on the employer's behalf.

Ms. Jackson responded to the notice of hearing and two attempts were made to contact her at the scheduled time of the hearing. On both occasions, the administrative law judge received a

voice message that indicated the cell phone subscriber was not receiving calls at that time. Ms. Jackson contacted the Appeals Section at 1:24 p.m., after the hearing record was closed. She denied having received a call from the administrative law judge. She did acknowledge that she had been told to call the Appeals Section if she had not received a call by 1:05 p.m. She decided to allow more time before contacting the Appeals Section. Had she called at 1:05 p.m. as directed, she would have been able to participate as the hearing record was not closed until 1:17 p.m. Because Ms. Jackson failed to establish good cause for not participating in the hearing at the scheduled time, the administrative law judge declined to reopen the record.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Jackson was employed by Ferguson Enterprises, Inc. from July 11 until December 27, 2005. The employer is a wholesale distributor of plumbing parts and Ms. Jackson worked full time as an order picker. Her last day at work was December 16 and she was next scheduled to work on December 19. Ms. Jackson contacted the manager on December 19 and requested a leave of absence to attend to certain personal problems at home. The leave was granted and she was expected to return to work on December 27.

On December 27, Ms. Jackson spoke to Deb Dange about having the leave of absence extended as she was still dealing with personal issues. She did not indicate that she was ill and under the care of a doctor. Ms. Dange spoke to the general manager, who denied the request for additional time off. Ms. Jackson was told she needed to report for her 3:00 p.m. shift on December 27 and she agreed she would. However, she did not report for work that day. The employer has had no contact from Ms. Jackson since the call of December 27. The employer has a written policy, of which Ms. Jackson was aware, which provides that three consecutive unreported absences will be construed as a voluntary quit. Continued work would have been available if Ms. Jackson had continued reporting for work.

Ms. Jackson has received a total of \$1,897.00 in job insurance benefits since filing her claim effective April 2, 2006.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Jackson was separated from employment for any disqualifying reason. She abandoned her job when she stopped reporting for available work. Therefore, her separation is considered a voluntary 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). Where an individual is absent from work for three consecutive days without notice, she is presumed to have quit for no good cause attributable to the employer. See 871 IAC 24.25(4). Ms. Jackson was absent from December 27 forward. Inasmuch as the evidence of record does not establish any good cause attributable to the employer for Ms. Jackson's quit, she is denied job insurance benefits.

Ms. Jackson has received 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 April 27, 2006, reference 02, is hereby reversed. Ms. Jackson 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. Jackson has been overpaid \$1,897.00 in job insurance benefits.

cfc/pjs