

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NICOLE L TIERNAN
Claimant

APPEAL NO. 11A-UI-04496-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**ULTA SALON COSMETICS &
FRAGRANCE INC**
Employer

OC: 03/21/10
Claimant: Respondent (2-R)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Ulta Salon Cosmetics & Fragrance, Inc. (Ulta) filed an appeal from a representative's decision dated March 25, 2011, reference 03, which held that no disqualification would be imposed regarding Nicole Tiernan's separation from employment. After due notice was issued, a hearing was held by telephone on May 2, 2011. Ms. Tiernan participated personally. The employer did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Ms. Tiernan was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Tiernan was employed by Ulta from November of 2009 until January 14, 2011. She always worked from four to six hours each week helping to unload trucks, open boxes, and stock shelves. At one point, she also had full-time employment elsewhere.

Ms. Tiernan quit the employment because she lost her housing and was not sure she would be able to make it to work on a regular basis. She was never told that further work would not be available to her. If she had not been experiencing housing problems, she would have remained with Ulta. She moved from Des Moines, where she worked for Ulta, to Louisiana at the end of March of 2011.

REASONING AND CONCLUSIONS OF LAW:

An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code § 96.5(1). The term "good cause attributable to the employer" generally refers to some matter over which the employer has control. In the case at hand, Ms. Tiernan left because of personal difficulties

she was having with housing. This was not a matter over which her employer had control. Inasmuch as this was the sole reason for leaving, it must be concluded that her quit was not for good cause attributable to the employer.

An individual who has left part-time employment without good cause attributable to the employer may still be eligible for benefits if she has sufficient other wage credits in the base period on which to base a valid claim. This matter shall be remanded to Claims to determine if Ms. Tiernan has enough other wage credits after deletion of wages earned with Ulta. She has received benefits since filing her additional claim effective January 9, 2011. She may have been overpaid benefits based on the deletion of wage credits earned with Ulta. Whether there has been an overpayment and the amount of any overpayment will depend on whether she had sufficient other wage credits on which to base a valid claim at the time the benefits were received.

DECISION:

The representative's decision dated March 25, 2011, reference 03, is hereby reversed. Ms. Tiernan quit her part-time employment without good cause attributable to the employer. Wage credits earned with Ulta may not be used on her claim until she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount. This matter is remanded to Claims to determine whether Ms. Tiernan has sufficient other wage credits on which to base a claim and whether she has been overpaid job insurance benefits.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs