

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

ANGIE S WERNING
912 – 8TH AVE
BELLE PLAINE IA 52208

MCLEODUSA TELECOMMUNICATIONS
SERVICES INC
c/o JON-JAY ASSOCIATES INC
PO BOX 182523
COLUMBUS OH 43218-2523

Appeal Number: 05A-UI-04578-S2T
OC: 03/27/05 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

STATEMENT OF THE CASE:

McLeodUSA Telecommunications Services (employer) appealed a representative's April 21, 2005 decision (reference 01) that concluded Angie S. Werning (claimant) was discharged and there was no evidence of willful or deliberate misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 20, 2005. The claimant did not provide a telephone number where she could be reached and, therefore, did not participate. The employer participated by Michelle Weber, Benefits Analyst, and Liz Maloney, Human Resources Business Partner.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on February 16, 2004, as a full-time inside sales specialist business outbound. The claimant received a copy of the employer's handbook and signed for its receipt on March 19, 2004 and an updated version on February 14, 2005. She received a copy of the employer's Small Business Expectations and signed for its receipt on February 19, 2004. The claimant understood she was to report any absence 30 minutes prior to the start of her shift.

On February 24, 2005, the employer informed the claimant her application for Family Medical Leave could not be approved because the claimant failed to submit any medical evidence.

On March 1, 2005, the claimant telephoned her supervisor after the start of her shift and said she would not be at work because she had a doctor's appointment. On March 2, 2005, she called her supervisor 10 minutes prior to her shift stating she had two doctor appointments. The claimant called her supervisor before the start of her shift on March 3, 2005, and said she was not returning to work and had to get some paperwork completed. On March 4, 2005, the claimant spoke to her supervisor prior to her shift. The claimant needed the day off to look for an apartment because she was separating from her husband. The doctor was considering putting her in the hospital due to her emotional state.

The claimant did not appear for work or notify the employer of her absences on March 7, 8, 9, 10, or 11, 2005. On March 11, 2005, the employer sent the claimant a letter informing her that she needed to return to work by March 16, 2005, or the employer would consider the claimant to have abandoned her job. The claimant did not appear for work or notify the employer of her absences on March 14, 15, or 16, 2005. The employer considered the claimant to have quit work on March 16, 2005. On March 21, 2005, the claimant contacted the employer. She apologized for her absence, knew her position was terminated and wanted to make arrangements to collect her personal items.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant voluntarily quit without good cause attributable to the employer. For the following reasons the administrative law judge concludes she did.

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's intention to voluntarily leave work was evidenced by her actions. She stopped appearing for work. There was no evidence of good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's April 21, 2005 decision (reference 01) is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount provided she is otherwise eligible.

bas/sc