

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

KELLI R SCHENKELBERG
2521 NW 14TH ST
ANKENY IA 50023

THE COPY SHOP
225 SE ORALABOR RD STE 1
ANKENY IA 50021-1727

Appeal Number: 05A-UI-11196-C
OC: 10/02/05 R: 02
Claimant: Respondent (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 Quit

STATEMENT OF THE CASE:

The Copy Shop filed an appeal from a representative's decision dated October 21, 2005, reference 01, which held that no disqualification would be imposed regarding Kelli Schenkelberg's separation from employment. After due notice was issued, a hearing was held on November 21, 2005 in Des Moines, Iowa. Ms. Schenkelberg participated personally. The employer participated by Steve Capellen and Cindy Capellen, Owners.

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. Schenkelberg was employed by The Copy Shop

from February 3 until September 27, 2005. She was a full-time employee who performed a number of duties, including customer service. She had received several verbal warnings regarding mistakes in the performance of her job.

On September 24, Ms. Schenkelberg worked on an order that called for pages to be padded along the 14-inch side of legal size sheets. Instead, she had the padding along the 8.5-inch side. The order involved 120,000 sheets of paper. Because of the error and the fact that she had been warned about errors, the employer decided that Ms. Schenkelberg would re-do the work on her own time. A note was left for her asking that she speak to Steve Capellen before clocking in on September 27. When she met with Mr. Capellen, he advised her that she would need to re-do the order from September 24 before she could clock in. This meant she would not be paid for the time it would take to re-do the order. The process would have taken from three to four hours. Ms. Schenkelberg's rate of pay was \$8.00 per hour.

After the meeting, Ms. Schenkelberg returned to work. She then decided that she could not work for three to four hours without pay and quit. The employer's requirement that she work without pay was the sole reason for the quit.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Schenkelberg was separated from employment for any disqualifying reason. 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). Ms. Schenkelberg did not quit because she was reprimanded for her error of September 24. She quit because she was going to lose three or four hours of pay as a result of the error. There was no evidence of an agreement between the parties that Ms. Schenkelberg would be required to correct her errors on her own time. The requirement that she work without pay constituted an intolerable working condition as contemplated by 871 IAC 24.26(4). As such, Ms. Schenkelberg had good cause attributable to the employer for quitting.

The administrative law judge appreciates that Ms. Schenkelberg had committed errors in the past in performing her job and had been warned about errors. The employer certainly had the recourse of discharging her for repeated errors in the performance of her job. However, the employer chose instead to reduce her pay for the day, a decision that resulted in Ms. Schenkelberg having good cause attributable to the employer for quitting.

For the reasons stated herein, the administrative law judge concludes that Ms. Schenkelberg had good cause for quitting her employment with The Copy Shop. Accordingly, benefits are allowed.

DECISION:

The representative's decision dated October 21, 2005, reference 01, is hereby affirmed. Ms. Schenkelberg voluntarily quit her employment for good cause attributable to the employer. Benefits are allowed, provided she satisfies all other conditions of eligibility.

cfc/tjc