

**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**

**JANICE M ALLEN
3441 – 6TH AVE
COUNCIL BLUFFS IA 51501**

**AMERICAN GAMES INC
C/o JOHNSON & ASSOCIATES
PO BOX 6007
OMAHA NE 68106-6007**

**Appeal Number: 06A-UI-07776-H2T
OC: 12-04-05 R: 01
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

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 27, 2006, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on August 17, 2006. The claimant did participate along with her witness/husband Harold Allen. The employer did participate through Kari Hockemeier, Human Resources Manager, Tom Adams, Production Manager and was represented by Lynn Corbeil of Johnson & Associates.

ISSUE:

Did the claimant voluntarily quit her employment with good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a hand collator full-time beginning June 5, 2006 through July 7, 2006 when she voluntarily quit.

The claimant quit because she did not want to stand up on her feet during her shift at the machine because her legs would swell up and hurt. When the claimant was hired, she was told that the job required she stand for the entire work shift. The employer did not have any other jobs to transfer the claimant into that did not required standing. No physician recommend to the claimant that she quit her job.

The claimant is currently able to work without work restrictions.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her 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.

871 IAC 24.26(23) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

- (23) The claimant left work because the type of work was misrepresented to such claimant at the time of acceptance of the work assignment.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2 (amended 1998). When she was hired the claimant was told that the job required she be on her feet during the duration of her shift. The type of work and the standing required was not misrepresented to the claimant when she was hired. The claimant's leaving was without good cause attributable to the employer. Benefits are denied.

DECISION:

The July 27, 2006, reference 02, decision is affirmed. The claimant voluntarily left her employment without 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 benefit amount, provided she is otherwise eligible.

tkh/cs