

**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**

**DOROTHY A DAVIS
2038 W 1ST ST
DAVENPORT IA 52802-1735**

**COMBINED CANDY AND SNACKS LLC
SHAKESPEARE'S
3840 W RIVER DR
DAVENPORT IA 52802**

**Appeal Number: 06A-UI-04971-HT
OC: 04/16/06 R: 04
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) – Quit
Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The employer, Shakespeare's, filed an appeal from a decision dated May 4, 2006, reference 01. The decision allowed benefits to the claimant, Dorothy Davis. After due notice was issued, a hearing was held by telephone conference call on May 24, 2006. The claimant participated on her own behalf. The employer participated by Administrative Assistant Mary Bisinger.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Dorothy Davis was employed by Shakespeare's from August 22, 2005 until April 19, 2006. She was a full-time production worker.

On April 17, 2006, the claimant submitted a written resignation to Production Supervisor Mark George. She indicated April 30, 2006, would be her last day. On the same piece of paper she indicated she would not be at work on April 21, 2006, because she had "appointments." On April 19, 2006, Mr. George took her time card away from her at the end of the shift and told her she was "done." The employer had elected to accept her resignation immediately.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified.

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.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:
 - a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.25(38) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

The claimant gave advanced notice of her resignation and the employer discharged her before she could work through the notice period. Under the provisions of the above Administrative Code section, she would be disqualified as of April 30, 2006, her proposed date of resignation.

However, because the employer discharged her prior to that date, she is qualified for that two-week period.

DECISION:

The representative's decision of May 4, 2006, reference 01, is affirmed. Dorothy Davis is qualified for benefits for the two-week period ending April 29, 2006. She is disqualified effective April 30, 2006.

bgh/kkf