

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

CINDI G CRADY  
606 E 7½ ST N  
NEWTON IA 50208

HY-VEE INC  
c/o TALX UCM SERVICES  
PO BOX 283  
ST LOUIS MO 63166 0283

Appeal Number: 05A-UI-07287-DWT  
OC: 06/05/05 R: 02  
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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Cindi G. Crady (claimant) appealed a representative's July 11, 2005 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits as of May 1, 2005, because she voluntarily quit working for Hy-Vee, Inc. (employer) for reasons that do not qualify her to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 3, 2005. The claimant participated in the hearing with her witness, Kevin Crady, her husband. David Williams, a representative with TALX, appeared on the employer's behalf. Laura Johnson, the store director, testified and Karee White observed the hearing. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on September 20, 2004. The claimant worked as a full-time assistant inventory specialist. The employer considered the claimant in training when her employment ended in mid-April, 2005. Prior to mid or late March, the claimant usually worked 7:00 a.m. to 4:00 p.m. or 5:00 a.m. to 2:00 p.m. When employees were ill or gone, the claimant would fill in and work at night.

In mid-March the employer made a rotating schedule for the employer's three assistant managers. After the employer hired another assistant manager by early or mid-May, the schedule would be changed so the claimant would not be required to work so much at night. In the interim the assistant managers, including the claimant, were scheduled to work seven consecutive nights during a two-week time frame every three weeks. The employer implemented this rotating schedule so all assistant managers were treated the same.

The claimant had worked just part of her seven consecutive nights when she contacted the employer on April 18, 2005. In an April 18 meeting the claimant was emotionally upset and informed the employer it was very hard for her with her family to work seven consecutive nights. During the meeting the claimant informed the employer that she could not work all the nights she had been scheduled to work and asked if the schedule could be changed. Since the schedule had been posted for that week, Johnson could not immediately change the schedule. When the claimant understood the employer would not change the claimant, she told the employer she would have to quit because it was too hard on her family to work that many nights in a row. Although the employer informed the claimant the rotating schedule would change and she would not have the same schedule when another assistant manager was hired in early or mid-May, the claimant said she would have to look for another job. The employer concluded the claimant was not emotionally upset to work that night and told her she could go home. Even though the claimant planned to work until May 1, the employer ended her employment as of April 18, 2005.

After the employer accepted the claimant's resignation on April 18, the claimant asked the employer to rehire her or to continue her employment in another position. Even though the claimant initially understood the employer would rehire her, as of the date of the hearing this had not occurred.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for work-connected misconduct. Iowa Code §§96.5-1, 2-a. The claimant voluntarily quit her employment as of May 1, 2005. When a claimant quits, she has the burden to establish she quit with good cause attributable to the employer. Iowa Code §96.6-2. Even though the employer did not allow the claimant to work until May 1, for unemployment purposes, the claimant intended to quit as of May 1, 2005.

The law presumes a claimant voluntarily quits with good cause when she quits because of a substantial change in the employment. 871 IAC 24.26(1). However, the law also presumes a claimant voluntarily quits without good cause when she quits because she does not like the shift she works. 871 IAC 24.25(18).

The facts indicate the claimant had started her second rotation to work seven consecutive nights. When the employer could not give the claimant immediate relief from her work schedule, the claimant quit even though the employer told her the schedule would change when another assistant manager could be hired in May. While the evidence establishes the claimant quit for compelling personal reasons, the evidence does not establish that she quit for reasons that qualify her to receive unemployment insurance benefits. Since the schedule was not permanent and the employer could have made accommodations in the future, the facts do not establish the employment relationship substantially changed. As of June 5, 2005, the claimant is not qualified to receive unemployment insurance benefits.

The facts show that after the employer accepted her resignation, the claimant wanted to rescind her resignation or to continue to work for the employer, but not as an assistant manager. It is as business decision as to whether the employer rehires the claimant or allows her to return to work. This is a decision that is beyond the scope of jurisdiction of the administrative law judge in this matter.

**DECISION:**

The representative's July 11, 2005 decision (reference 02) is affirmed. The claimant voluntarily quit her employment as of May 1, 2005, for compelling personal reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of June 5, 2005. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

dlw/pjs