

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

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Appeal Number: 06A-UI-06645-S2T
OC: 06/04/06 R: 01
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:

Belle Touche' (employer) appealed a representative's June 22, 2006 decision (reference 01) that concluded Tricia Jefferson (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 July 19, 2006. The claimant participated personally. The employer was represented by Frank Cosgrove, Attorney at Law, and participated by Lisa Pfeifle, Liaison and Cheri Cosgrove, President and Chief Executive Officer.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds that: The claimant worked for the employer as a full-time receptionist from March 1, 2004 until November 13, 2005. The claimant quit work to take other employment.

On December 20, 2005, the claimant was hired to work Thursdays, Fridays and Saturdays. In February 2006, the employer changed the claimant's work hours to Tuesdays, Wednesdays, Thursdays and Fridays. After the change in the claimant's hours, the claimant's husband began working on Saturdays. The claimant informed the employer she could no longer work on Saturdays unless she volunteered to do so.

On May 26, 2006, the employer informed the claimant that she would have to work two Saturdays per month. If she could not, the employer would have to look for someone who could work those hours. The claimant said she would discuss the matter with her husband but doubted she could work regularly on Saturdays.

On June 1, 2006, the claimant went to work and discovered the employer did not give her a badge because it expected the claimant to quit. The claimant was pregnant and became overly emotional. She went home for the rest of the day. On June 2, 2006, the claimant took a planned vacation day.

On June 6, 2006, the employer met with the claimant for an exit interview. The claimant expressed that she could not work on Saturdays. The employer told the claimant there was no room in the company for her because she could not work on Saturdays.

REASONING AND CONCLUSIONS OF LAW:

The first 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-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant left her position with the employer to work for another employer. When an employee quits work to take other employment, she is not disqualified from receiving unemployment insurance benefits. The claimant quit work to take other employment. She voluntarily quit without good cause attributable to the employer. Benefits are allowed because the claimant left to take other employment. The employer will not be charged.

The next issue is whether the claimant voluntarily quit without good cause attributable to the employer on June 1, 2006. For the following reasons the administrative law judge concludes she did not.

871 IAC 24.26(1) 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:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

An employee must give prior notice to the employer before quitting due to a change in the contract of hire. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). The claimant quit work because the employer changed the days that she worked. A change in one's hours or shift is a substantial change in one's contract for hire. The employer substantially changed the claimant's contract for hire and, therefore, the separation was not voluntary. The claimant is qualified to receive unemployment insurance benefits, provided she is otherwise eligible.

DECISION:

The representative's June 22, 2006 decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer on November 13, 2006. The claimant is not disqualified from receiving unemployment insurance benefits because she quit to take other employment. The employer will not be charged. On June 1, 2006, the claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

bas/cs