

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

DENISE D INGRAM
4334 GRAND AVE APT #4
DES MOINES IA 50312

PAPP INC
11000 DOUGLAS AVE
DES MOINES IA 50322

Appeal Number: 05A-UI-05342-DWT
OC: 04/24/05 R: 02
Claimant: Respondent (2)

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:

Papp, Inc. (employer) appealed a representative's May 10, 2005 decision (reference 01) that concluded Denise D. Ingram (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant voluntarily quit employment for reasons that qualified 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 June 8, 2005. The claimant participated in the hearing. Mike Amin, the owner, appeared on the employer's behalf. 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, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in November 2004. Before the claimant went on maternity leave on February 10, 2005, she worked at Days Inn full time. The employer owns two motels, Days Inn and Econo Lodge. While the Amins own and operate both motels, the motels are two separate business entities. The claimant worked the 3:00 to 11:00 p.m. shift at Days Inn.

Before the claimant's maternity leave ended, she informed the employer she would not be able to work any overnight shifts because she had to be with her newborn baby at night. The employer planned to accommodate the claimant's schedule by having her work at the two motels the employer's family owned. Between the two motels, the claimant would work morning and afternoon shifts. The claimant did not work these shifts at all because her doctor decided she should not return for another two weeks. During these two additional weeks the claimant was off from work, she learned the State of Iowa would take \$60.00 a month out of both checks for child support because the motels were set up as two employing units. The claimant did not believe it was worth working at the one motel because she would only be working two days a week there.

The claimant then asked the employer if she could work at just one motel. The employer again tried to accommodate her request. The employer then scheduled her to work the 3:00 to 11:00 p.m. shift at Econo Lodge. The claimant's relatives took care of her child while she was working the 3:00 to 11:00 p.m. shift. The claimant started this shift the week of April 17, 2005. During this week, the claimant reported to work late once and asked to leave two to three hours early once. Both incidents had something to do with childcare issues or her newborn child. The employer was not happy that the claimant's priority was her child instead of the employer's motel because the employer needed a dependable and reliable employee. On April 26, the employer talked to the claimant about the problems she had working as scheduled and indicated that if she could not be a dependable employee by her assigned shift, she could work overnight shifts. After consulting with her husband, the claimant voluntarily quit her employment.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §96.5-1, 2-a. The facts establish the claimant the claimant voluntarily quit her employment on April 26, 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.

The law presumes a claimant has quit without good cause when she does not have adequate childcare, dislikes a shift or quits after being reprimanded. 871 IAC 24.25(17), (18) and (28). On April 26, the employer reprimanded the claimant for being an unreliable and undependable employee by failing to work as scheduled on two days she worked in a week after the employer

told the claimant that if she could not work as scheduled on the 3:00 to 11:00 p.m. shift, she would have to work overnight. Instead of making sure she was able to work as scheduled on the 3:00 to 11:00 p.m. shift, the claimant chose to quit. The claimant had compelling personal reasons for quitting because her priority was her newborn child and not the employer's business. This reason does not amount to good cause for unemployment insurance purposes.

The claimant asserted the employer would only allow her to work the overnight shift after April 26. Since the employer has accommodated the claimant's repeated requests after she returned from her maternity leave, the credible evidence does not support the claimant's assertion. The employer's testimony as to what hours the claimant could continue to work after April 26 is more credible than the claimant's testimony.

The claimant quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. As of April 24, 2005, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's May 10, 2005 decision (reference 01) is reversed. The claimant voluntarily quit her employment for reasons that do not constitute good cause. The claimant is disqualified from receiving unemployment insurance benefits as of April 24, 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