

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-01576-MT  
OC: 01/08/06 R: 03  
Claimant: Appellant (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, 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:

Claimant filed an appeal from a decision of a representative dated February 7, 2006, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 27, 2006. Claimant participated and was represented by Paul McAndrew, Jr., Attorney at Law. Employer participated by Brian Beske, Manager.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant last worked for employer on January 13, 2006.

Claimant was directed to return to work January 13, 2006. Claimant did not call in or report to work for three days in a row. Employer's policy deems three no-show absences as job abandonment. Claimant had previously worked five days a week, Monday through Friday. Claimant was offered weekend work upon her return. Claimant had previously worked both hotels for the employer. Claimant, upon her return, only wanted to work at the Royal Rest, because it was easier. Claimant has breathing problems aggravated by chemical use. Claimant believed that going back to the job at the Stardust would greatly aggravate her issues more than if she worked at the Royal Rest. Claimant asked for work at the Royal Rest. Employer only offered work at the Stardust. Claimant was not offered any weekday work.

#### REASONING AND CONCLUSIONS OF LAW:

The issue in this matter is whether claimant quit for good cause attributable to employer. The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of a change in the contract of hire. Claimant had been working weekdays only. When claimant returned to work, she was offered weekend work only. This is a unilateral change in the contract of hire initiated by employer. The work location was substantially similar to work previously performed and, as such, not a change in work terms. However, it only takes one valid reason for a quit to substantiate cause attributable to employer. Benefits allowed.

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(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.

#### DECISION:

The decision of the representative dated February 7, 2006, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

mdm\kjlw