

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

ANNA L MAGGARD
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CHARLES CITY IA 50616

ALL-STATES QUALITY FOODS LP
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CHARLES CITY IA 50616

Appeal Number: 04A-UI-12820-BT
OC: 01/11/04 R: 02
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, 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 Leaving

STATEMENT OF THE CASE:

Anna Maggard (claimant) appealed an unemployment insurance decision dated November 22, 2004, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with All-States Quality Foods (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 17, 2004. The claimant participated in the hearing. The employer participated through Tim Prenivost, Human Resources Manager.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a part-time and subsequent full-time laundry assistant from January 17, 2001 through July 30, 2004. She quit due to unsafe working conditions. The washers where she worked often leaked and frequently broke down. The claimant and her co-employees had to work while standing in water or on a soapy floor. Water came up through the drain and when it went down, the floor had to be rinsed, as it was soapy. The claimant complained about the working conditions, but the employer testified that it is common for commercial washers to leak. The claimant quit when the washer leaked and the water was leaking on wires, according to a maintenance employee, and the employer could not afford to fix it. The maintenance manager told the employer it was safe, but the claimant reported that he had not even looked at it. When the employer could not guarantee the claimant's safety, she quit.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code §96.5-1.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant demonstrated her intent to quit and acted to carry it out when she gave notice to the employer. She quit due to unsafe working conditions. The law considers it a voluntary quit with good cause when a claimant leaves employment due to unsafe working conditions. 871 IAC 24.26(2). While the employer and maintenance manager contend there were no unsafe working conditions, the preponderance of the evidence shows otherwise. It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code §96.6-2. The claimant has satisfied that burden. Benefits are allowed.

DECISION:

The unemployment insurance decision dated November 22, 2004, reference 01, is reversed. The claimant voluntarily quit her employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided she is otherwise eligible.

sdb/smc