

**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**

**JENNIFER J TOPP
1540 MILTON AVE
DES MOINES IA 50316**

**MAINSTREAM LIVING INC
PO BOX 01608
AMES IA 50010-1608**

**Appeal Number: 04A-UI-04109-MT
OC: 03/07/04 R: 02
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:

Employer filed an appeal from a decision of a representative dated April 2, 2004, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on May 3, 2004 at Des Moines. Claimant participated. Employer participated by Kristina Johnson, Human Resources Coordinator. Exhibit One was admitted into evidence.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on March 5, 2004. Claimant quit because

she was verbally assaulted by a client of the facility. This individual had previously physically assaulted claimant. Notwithstanding the prior assault, employer readmitted this client to the program with access to claimant. Employer did not take adequate precautions to prevent further assaults. Claimant quit because of this second assault. Employer again promised that the client would be evicted from the program. Claimant did not believe that employer would follow through on the safety issues and quit.

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 detrimental and unsafe work conditions. Such is good cause attributable to employer after a prior incident which put employer on notice. Employer had obligation to protect claimant from further incidents but instead placed claimant in the same jeopardy as before. It is not unreasonable for claimant to not give employer a third chance to provide a safe and protected work environment. This is good cause attributable to employer.

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.

DECISION:

The decision of the representative dated April 2, 2004, reference 01, is affirmed. Unemployment insurance benefits are allowed provided claimant is otherwise eligible.

mdm\kjjf