

**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-04696-LT
OC: 04-02-06 R: 02
Claimant: Appellant (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)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the April 25, 2006, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on May 17, 2006. Claimant participated and was represented by Thomas Berg, Attorney at Law. Employer participated through Deb Shelabarger and Sheila Barrett and was represented by Richard Barrett, Attorney at Law. Claimant's Exhibits A through C were received.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time senior financial analyst from January 23, 2006 through March 15, 2006, when she quit. On March 13 she had a final conversation with Deb Shelabarger and explained her frustration with not having enough work to do and her desire for additional tasks

to be assigned since she was not keeping busy and was not sure what she was supposed to be doing with her time. The CFO retired on February 14, his duties passed to Shelabarger and her duties were to go to claimant. Shelabarger needed to learn his duties during a three week period and also train claimant to take over her duties during the transition. Claimant never told Shelabarger she would quit if she were not given enough work to do. Some days she did work eight hours and employer did not expect her to be completely trained within the first two weeks after the CFO's retirement. There were duties available through the training program, employer's policies were available on the intranet, and Shelabarger urged claimant to review those and familiarize herself with them. Shelabarger did not respond to e-mails in kind but went to her office to respond in person. She told claimant that over the course of the transition she estimated there would be more reliable full time work within another month.

Claimant averaged only 20 hours per week and also spoke with the human resources department twice about not having enough work to do. Claimant left Annette Dillman a message telling her she had concerns not having enough work to keep her occupied. She did not give employer a notice period since she believed there was no work to complete.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the 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.

871 IAC 24.25(21), (22), (27) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

(22) The claimant left because of a personality conflict with the supervisor.

(27) The claimant left rather than perform the assigned work as instructed.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. *Cobb v. Employment Appeal Bd.*, 506 N.W.2d 445 (Iowa 1993). Claimant was not required to give notice of his intention to quit

due to an intolerable, detrimental or unsafe working environment if employer had or should have had reasonable knowledge of the condition. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005)

While claimant's work ethic is to be commended, she did not allow employer a reasonable opportunity to complete the job transition of two individuals and assign her more work within the month time period as promised. As long as she was paid her regular salary regardless of the amount of work available, her impatience with employer's light work load was not an intolerable or detrimental work condition and was not a good cause reason for leaving the employment. Benefits are denied.

DECISION:

The April 25, 2006, reference 01, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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