

**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**

**ERIKA G WYANT
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PRESTON MN 55965**

**APAC CUSTOMER SERVICES INC
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283**

**Appeal Number: 04A-UI-11197-LT
OC: 06-27-04 R: 12
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:

Claimant filed a timely appeal from the October 6, 2004, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on November 8, 2004. Claimant did participate. Employer elected not to participate.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time customer service representative through September 17, 2004 when she quit. She was given a reduction in pay in December 2003 from \$7.00 per hour but paid her a bonus equivalent to a total of \$8.00 per hour. In August 2004 employer told her that they might lose the bonus pay system. On September 13 employer informed her that she would no longer receive the bonus payment. Claimant then gave her two-week notice but quit

on September 17 after her boss, Don Heying, was hostile towards her and called her a "backstabber." He had a history of harassing claimant (calling her names and disciplining her for false reasons in front of coworkers and telling her that he wish she would die) to the point that she was prescribed anti-anxiety medication in August 2004. Claimant told Brian Mooney, assistant business manager, before the bonus was removed, that she would quit if Heying continued to harass her.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did voluntarily leave the employment with 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 24.26(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.

In general, a substantial pay reduction or 25 to 35 percent reduction of working hours creates good cause attributable to the employer for a resignation. Dehmel v. EAB, 433 N.W.2d 700 (Iowa 1988). 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 Board, 506 N.W.2d 445 (Iowa 1993).

Inasmuch as the claimant would suffer a reduction in pay, the change of the original terms of hire is considered substantial. Furthermore, claimant did notify employer of her intention to quit if Heying's harassment of her did not stop. Both were sufficient reasons attributable to the employer for leaving. Thus the separation was with good cause attributable to the employer. Benefits are allowed.

DECISION:

The October 6, 2004, reference 01, decision is reversed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

dml/tjc