

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

PATTY A MITCHELL
4810 N PINE ST
DAVENPORT IA 52806

APAC CUSTOMER SERVICES OF
IOWA LLC
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-07432-RT
OC: 06-26-05 R: 04
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)

Section 96.5-1 – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant, Patty A. Mitchell, filed a timely appeal from an unemployment insurance decision dated July 14, 2005, reference 01, denying unemployment insurance benefits to her. After due notice was issued for a telephone hearing on August 4, 2005 at 10:00 a.m., neither the claimant nor the employer responded to the notice of appeal and telephone hearing by providing telephone numbers where anyone could be reached for the hearing, as specifically instructed in the notice. Consequently, no hearing was held. The administrative law judge takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant.

FINDINGS OF FACT:

Having examined all of the evidence in the record, the administrative law judge finds: An authorized representative of Iowa Workforce Development issued a decision in this matter on July 14, 2005, reference 01, determining that the claimant was not eligible to receive unemployment insurance benefits because Iowa Workforce Development records indicate that the claimant voluntarily quit work on June 18, 2005 for personal reasons and her quitting was not caused by her employer.

REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant's separation from employment was a disqualifying event. It was.

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.

Neither party participated in the hearing. In its appeal letter the employer's representative stated that the claimant voluntarily quit on July 28, 2005. The employer's representative also states the same thing in the protest. The claimant participated in fact finding and indicated that she quit on June 28, 2005. The employer did not participate in fact finding. In her appeal the claimant states that she quit. Accordingly, the administrative law judge concludes that the claimant left her employment voluntarily or quit on June 28, 2005. The issue then becomes whether the claimant left her employment without good cause attributable to the employer.

The administrative law judge concludes that the claimant has the burden to prove that she has left her employment with the employer herein with good cause attributable to the employer. See Iowa Code section 96.6-2. The administrative law judge concludes that the claimant has failed to meet her burden of proof to demonstrate by a preponderance of the evidence that she left her employment with the employer herein with good cause attributable to the employer. Neither party participated in the hearing. In its letter of protest, the employer's representative stated that the claimant quit for health reasons. The employer's protest is silent about the reasons for the quit. The claimant participated in fact finding and stated that she was missing work because of migraines and that she would rather quit and have the option of returning to the employer later in six months. The employer did not participate in fact finding. The claimant was silent on the reasons for her quit in her appeal letter. The administrative law judge is constrained to conclude that the claimant has not demonstrated by a preponderance of the evidence that her working conditions were unsafe, unlawful, intolerable or detrimental, or that she was subjected to a substantial change in her contract of hire. There is some evidence that the claimant quit because of health conditions, in particular, migraine headaches. However, there is no competent evidence showing adequate health reasons to justify her quit or that her health condition was attributable to her employment. There is also no evidence that the claimant specifically requested accommodations based upon her health condition or that she indicated or announced an intention to quit if her requests were not accommodated. There is also no evidence that the claimant's recovery was certified by a licensed and practicing physician and that she has returned to the employer and offered to perform services and no work was available. Accordingly, the administrative law judge concludes that the claimant has

not demonstrated by a preponderance of the evidence good cause attributable to the employer either for her quit because of an employment-related illness or injury or a non employment-related illness or injury.

In summary, and for all the reasons set out above, the administrative law judge concludes that the claimant left her employment voluntarily on June 28, 2005, without good cause attributable to the employer and, as a consequence, she is disqualified to receive unemployment insurance benefits. Unemployment insurance benefits are denied to the claimant until or unless she requalifies for such benefits.

DECISION:

The representative's decision of July 14, 2005, reference 01, is affirmed. The claimant, Patty A. Mitchell, is not entitled to receive unemployment insurance benefits, until or unless she requalifies for such benefits, because she left her employment voluntarily without good cause attributable to the employer.

pjs/kjw