

**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**

**AMENDED**

**Appeal Number: 06A-UI-03998-H2T  
OC: 03-12-06 R: 03  
Claimant: Respondent (2)**

**SUZANNE I WEGER  
2706 D AVE NW  
CEDAR RAPIDS IA 52405-3625**

**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.

**COTTAGE GROVE PLACE  
2115 – 1<sup>ST</sup> AVE SE  
CEDAR RAPIDS IA 52402**

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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 - Voluntary Leaving  
Section 96.3-7 - Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The employer filed a timely appeal from the April 6, 2006, reference 04, decision that allowed benefits. After due notice was issued, a hearing was held on April 28, 2006. The claimant did participate. The employer did participate through Jamie Spurlock, Human Resources Director. Employer's Exhibit One was received.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a house associate on an as needed basis beginning May 9, 2005 through April 1, 2006, when she voluntarily quit because she did not believe she was being

given enough hours. When the claimant was hired she was specifically told that she would only be working on an as need or PRN basis. The claimant was hired to cover for employees who called in sick, took vacation or were gone on extended medical leave. The claimant worked from early May 2005 through July 2005 covering for an employee who was off on maternity leave. The claimant thereafter worked very sporadically and for no set number of hours. The claimant quit when the employer would not guarantee her two or three days of work per week.

The claimant has claimed and received unemployment insurance benefits after the separation from employment.

#### 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.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2 (amended 1998). When the claimant was hired she was told she would be working sporadically and filling in for other employees. She was never guaranteed any set number of hours. There was no change in the claimant's contract of hire. The claimant's quitting then, was without good cause attributable to the employer. Benefits are denied.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Because the claimant's separation was disqualifying, benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law.

DECISION:

The April 6, 2006, reference 04, decision is reversed. 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. The claimant is overpaid benefits in the amount of \$639.00.

tkh/kkf/tjc

NOTE TO CLAIMANT:

If you have earned \$3,110.00 since your separation on April 1, 2006, from Cottage Grove Place, take proof of your subsequent earnings to your local Workforce office to be requalified for unemployment insurance benefits.