

**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**

**CYNTHIA L WILLIAMS
3015 S 94TH ST
OMAHA NE 68124**

**HOME DEPOT USA INC
C/o TALX UCM SERVICES INC
PO BOX 283
ST LOUIS MO 63166-0283**

**JOHN KOCOUREK
ATTORNEY AT LAW
223 S MAIN
COUNCIL BLUFFS IA 51503**

**Appeal Number: 05A-UI-03773-MT
OC: 03/20/05 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 Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated April 6, 2005, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 2, 2005. Claimant participated and was represented by John Kocourek, Attorney at Law. Employer failed to respond to the hearing notice and did not participate.

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 17, 2005. Claimant had a six-

hour per day work restriction. Employer accommodated the non-work related work restriction for three months. Employer after three months forced claimant to take a demotion or to quit. The demotion would have resulted in a \$1.70 per hour drop in pay. Claimant quit rather than be demoted.

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 a cut in the rate of pay. This is a significant change in the contract of hire. Employer's accommodation for 90 days granted claimant a right to continued employment on the same terms and condition. This expectation was removed by the employer at 90 days when claimant was forced to take a demotion with a reduced rate of pay. This is a significant change in the contract of hire which justifies a quit for good cause attributable to employer. Benefits allowed.

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.

DECISION:

The decision of the representative dated April 6, 2005, reference 01, is reversed. Unemployment insurance benefits are allowed provided claimant is otherwise eligible.

mdm\pjs