

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

SHERI L WALLER  
306 B AVE NE  
CEDAR RAPIDS IA 52405

CIGARETTE OUTLET INC  
C/o JOSEPH DEPAEPE  
319 E 2<sup>ND</sup> ST #104  
MUSCATINE IA 52761-4100

Appeal Number: 05A-UI-02670-CT  
OC: 02/06/05 R: 03  
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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Sheri Waller filed an appeal from a representative's decision dated March 4, 2005, reference 01, which denied benefits based on her separation from Cigarette Outlet, Inc. After due notice was issued, a hearing was held by telephone on March 31, 2005. Ms. Waller participated personally. The employer participated by Debra Schnyder, Supervisor, and Steve Thompson, Vice President.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Waller was employed by Cigarette Outlet, Inc. from

March 15 until December 6, 2004 as a part-time cashier. She worked from 17 to 32 hours each week. Ms. Waller was scheduled to be at work at 8:00 a.m. on Saturday, December 4. She called at 9:00 a.m. to report that she would be late. Another employee, Michelle, had to work in her place.

When Ms. Waller reported to work on December 6, Michelle was there. Michelle yelled at her because she had had to work for Ms. Waller on December 4 and stated that Ms. Waller would have to work the upcoming weekend. Ms. Waller called her store manager about Michelle's conduct and the manager advised that she would take care of the problem. Also on December 6, Ms. Waller learned that she was going to receive a written reprimand because of her absence on December 4. Ms. Waller walked off the job on December 6 and did not thereafter return. She had not notified the employer that she was considering quitting because of any work-related matters. Continued work would have been available if she had not quit.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Waller was separated from employment for any disqualifying reason. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Ms. Waller quit because of a verbal altercation with a coworker. However, the administrative law judge does not believe Michelle was yelling and screaming to the extent testified to by Ms. Waller. Ms. Waller put her manager on notice of the problem and, according to Ms. Waller's testimony, the manager agreed to handle the matter. However, Ms. Waller quit before allowing the employer an opportunity to address the conflict she was having with Michelle. Moreover, it appears that Ms. Waller left immediately after learning that she was going to be disciplined. An individual who leaves employment after being reprimanded is presumed to have quit without good cause attributable to the employer. See 871 IAC 24.25(28).

Ms. Waller cited other factors in her decision to quit. However, she had not put the employer on notice that she was considering quitting. She had access to the owners of the company but did not address any concerns with them. Therefore, she deprived the employer of a reasonable opportunity to address her concerns. After considering all of the evidence and the contentions of the parties, the administrative law judge concludes that Ms. Waller's quit was not for good cause attributable to the employer. Accordingly, benefits are denied.

An individual who voluntarily quits part-time employment without good cause attributable to the employer may nevertheless qualify for job insurance benefits if there are sufficient other wage credits to establish a valid claim. See 871 IAC 24.27(96). Ms. Waller does not have sufficient other wage credits to establish a valid claim.

#### DECISION:

The representative's decision dated March 4, 2005, reference 01, is hereby affirmed. Ms. Waller voluntarily quit the employment for no 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 job insurance benefit amount, provided she satisfies all other conditions of eligibility.

cfc/sc