

**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**

**KERRY RIVERA
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**Appeal Number: 05A-UI-06891-DWT
OC: 06/05/05 R: 02
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 Quit

STATEMENT OF THE CASE:

Kerry Rivera (claimant) appealed a representative's June 23, 2005 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Earl May Seed & Nursery LC (employer) would not be charged because the claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 21, 2005. The claimant participated in the hearing with her attorney, Dan Wilmoth. Lynn Corbeil, attorney at law, represented the employer. Mark Thoms, the store manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

SSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in May 2000. Prior to her separation, the claimant worked around 25 hours a week. During her employment, the claimant worked both full-time and part-time hours. The claimant was in charge of plants. Thoms became her supervisor in November 2004 when he became the store manager. Thoms and the claimant did not have any problems getting along at work.

In February 2005, the claimant received a 35-cent an hour raise. The claimant was somewhat disappointed because she had expected at least a 50-cent an hour raise. On June 2, 2005, Thoms talked to the claimant in his office about some concerns he had with her performance. Some of the claimant's co-workers had complained that she was not watering the plants and expected them to do this job. After the claimant explained how some of the employees may not understand the order in which she performed her work, Thoms asked her to lead the others by making sure she got her work done, which included watering plants. When Thoms asked the claimant if her heart was really in the job anymore, the claimant asked why she should work harder when other employees made more money than she and did less work. The claimant told Thoms she needed more money. Thoms then told her she would not be getting any more money in the near future, but he would increase the number of hours she could work if she wanted him to. The claimant could not work anymore hours because she needed time to spend with her children. The claimant appeared upset when she left Thoms office.

The claimant went back to work and started interacting with customers. Thoms approached the claimant and asked her to come back to his office because he could not have angry or upset employees helping customers. Thoms told the claimant that he did not want her at work if she was not happy. The claimant indicated she was fine and continued to work for a few minutes. A short time later, Thoms saw the claimant leave work and she said good-bye to him. Thoms assumed the claimant had decided she was too upset to continue working that day and went home to calm down. Thoms assumed she would return to work the next day. The claimant did not return to work or contact the employer after June 2, 2005.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. A preponderance of the evidence does not establish that the employer discharged the claimant on June 2, 2005.

A preponderance of evidence shows that after the claimant left Thoms' office, he concluded she was upset. Thoms did not want an employee who was upset working or being around customers. If the claimant had not been upset, she would have realized Thoms only wanted her to go home for that one day if she was too upset to work.

While the claimant was in Thoms' office, he talked to the claimant about some employee complaints. He did not reprimand her or give her any written or verbal warnings. The claimant became upset only after she learned, the employer would not give her another raise. The claimant was less than forthcoming about the discussion she had about with Thoms on June 2. As a result, the claimant's testimony is not deemed as credible as Thoms'.

The law presumes a claimant voluntarily quits without good cause when she leaves employment because of dissatisfaction with her wages. 871 IAC 24.25(13). The facts indicate the claimant chose not to return to work after June 2 because she did not receive a raise for all the work she did for the employer.

The claimant established compelling personal reasons for quitting. The claimant, however, quit for reasons that do not qualify her to receive unemployment insurance benefits. As of June 5, 2005, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's June 23, 2005 decision (reference 01) is affirmed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of June 5, 2005. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

dlw/sc