

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

CATHERINE M HOY
907 E 39TH ST
DAVENPORT IA 52807

ZANCANELLI MANAGEMENT CORP
ATTN HUMAN RESOURCES
300 S CLAIRBORNE RD #A1
OLATHE KS 66062

Appeal Number: 05A-UI-03530-AT
OC: 02-27-05 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 Quit

STATEMENT OF THE CASE:

Catherine M. Hoy filed a timely appeal from an unemployment insurance decision dated March 24, 2005 reference 01 which disqualified her for benefits. After due notice was issued, a telephone hearing was held April 25, 2005 with Ms. Hoy participating. The employer, Zancanelli Management Corp., did not respond to the hearing notice.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Catherine M. Hoy as employed by Zancanelli

Management Corp. from June 1, 2004 until she resigned February 22, 2005. She last worked full time as a co-manager at a KFC restaurant.

Ms. Hoy attended a manager's meeting on February 25, 2005, learning at that meeting that the general manager for whom she worked could not come to work because she was ill. This made Ms. Hoy upset. She spoke to the district manager, her father, who said that he could not do anything to help at that moment. Ms. Hoy was instructed to cope with the situation. This, too, made Ms. Hoy upset.

Later in the day, she spoke to the district manager again. The district manager told Ms. Hoy that she would not be promoted to the general manager's position because of unsatisfactory childcare arrangements. Ms. Hoy's mother, (the district manager's wife), cared for Ms. Hoy's children. Ms. Hoy's mother, however, was in poor health.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that Ms. Hoy resigned with good cause attributable to the employer. It does not.

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.

In essence, Ms. Hoy resigned because she was frustrated with the absences of her supervisor and because she was not going to receive a promotion.

The administrative law judge reasons that middle managers are from time to time called upon to step in when a senior manager is away from work, both for personal and business reasons. That is part of the learning process by which younger managers are groomed for positions of greater responsibility. The administrative law judge also reasons that promotions are discretionary not guaranteed. The evidence in the record persuades the administrative law judge that the district manager did not pass over the claimant because she had children but because the district manager was aware of child care problems which would limit the claimant's effectiveness of a general manager. From this administrative law judge concludes that the evidence does not establish good cause attributable to the employer. Benefits must be withheld.

DECISION:

The unemployment insurance decision dated March 24, 2005 reference 01 is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

sc/pjs