

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 M FORSYTH  
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FINANCIAL DECISIONS GROUP  
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DES MOINES IA 50314-2527

Appeal Number: 04A-UI-10772-S2T  
OC: 09/19/04 R: 01  
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:

Cynthia Forsyth (claimant) appealed a representative's October 4, 2004 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she had voluntarily quit employment with Financial Decisions Group (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 25, 2004. The claimant was represented by Gail Klearman, Attorney at Law, and participated personally and through Tom Boyd, Detective. The employer participated by Jackson Ode, Partner; Paul Jennings, Partner; Brian Miller, Partner; Jill Anderson, Director of Recruitment; and Carrie Stone, Administrative Assistant.

#### FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on May 16, 2004, as a full-time brokerage manager. At the time she was hired she signed a contract. Shortly after signing the contract the claimant told the employer she did not wish to work evenings. The contract was renegotiated and the claimant did not work evenings.

During the week of August 16, 2004, the employer and claimant met and renegotiated the contract. The claimant agreed to work evenings. On or about August 23, 2004, the claimant told the employer she was quitting. The claimant quit work because she had to work evenings but did not express that to the employer. The employer thought the claimant was quitting to seek higher-paying employment. The claimant was paid through August 27, 2004. Continued work was available had the claimant not resigned.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant voluntarily quit without good cause attributable to the employer. For the following reasons the administrative law judge concludes she did 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.

871 IAC 24.25(18), (13) provide:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(18) The claimant left because of a dislike of the shift worked.

(13) The claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by her words and actions. She told the employer that she was leaving and quit work. When an employee quits work because she does not like the shift or the wages even though she knows the shift and rate of pay when she agreed to the contract, her leaving is without good cause attributable to the employer. The claimant left work because she did not

like the shift or rate of pay even though she agreed to both at the time of renegotiation in August 2004. There was no change in her contract for hire from the time she agreed to it in August 2004, and her quitting on August 23, 2004. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's October 4, 2004 decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount provided she is otherwise eligible.

bas/kjf