

**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**

**JOY D LEAFGREEN
1412 ASBURY
OTTUMWA IA 52501**

**OTTUMWA FOODS LTD
COUNTRY KITCHEN OF OTTUMWA
1107 QUINCY AVE
OTTUMWA IA 52501**

**Appeal Number: 04A-UI-03744-CT
OC: 02/15/04 R: 03
Claimant: Respondent (2-R)**

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:

Country Kitchen of Ottumwa filed an appeal from a representative's decision dated March 23, 2004, reference 04, which held that no disqualification would be imposed regarding Joy Leafgreen's separation from employment. After due notice was issued, a hearing was held by telephone on April 26, 2004. The employer participated by Larry Zimmerman, Owner. Ms. Leafgreen did not respond to the notice of hearing.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Leafgreen was employed by Country Kitchen from April 1 until August 18, 2003 as a part-time waitress. She worked approximately ten hours each week. She was presumed to have quit when she failed to report for work on August 19 and did not contact the employer. She did not report for available work after that date. Continued work would have been available if Ms. Leafgreen had not quit.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Leafgreen was separated from employment for any disqualifying reason. The administrative law judge finds from all of the evidence that she abandoned her job when she stopped reporting for available work. An individual who leaves employment voluntarily 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. Leafgreen had the burden of proving that her quit was for good cause attributable to the employer. Iowa Code Section 96.3(7). The evidence of record does not establish any good cause attributable to the employer.

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). Wage credits earned with the part-time employer that was quit may not be used on the claim until such time as the individual requalifies by earning ten times the weekly benefit amount in insured wages after the disqualifying separation. This matter shall be remanded to Claims for a determination regarding Ms. Leafgreen's eligibility for benefits after deletion of wage credits earned with Country Kitchen.

Ms. Leafgreen has received job insurance benefits since filing her claim effective February 15, 2004. Whether she has been overpaid and the amount of any overpayment will necessarily depend on whether she is eligible for benefits after deletion of part-time wage credits and the amount of benefits she is eligible to receive. Ms. Leafgreen will be advised of any resulting overpayment after her claim is re-determined.

DECISION:

The representative's decision dated March 23, 2004, reference 04, is hereby reversed. Ms. Leafgreen voluntarily quit her part-time employment with Country Kitchen for no good cause attributable to the employer. This matter is remanded to Claims to determine whether she remains eligible to receive benefits based on other wage credits and whether she has been overpaid job insurance benefits.

cfc/kjf