

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

CINDY A SIMPSON
520 FORREST RD
CEDAR FALLS IA 50613

TYSON FRESH MEATS INC
c/o TALX UC EXPRESS
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ST LOUIS MO 63166-0283

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Appeal Number: 04A-UI-00730-DWT
OC 12/14/03 R 03
Claimant: Appellant (2)

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 are 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:

Cindy A. Simpson (claimant) appealed a representative's January 15, 2004 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Tyson Fresh Meats, Inc. (employer) would not be charged because the claimant voluntarily quit her employment for reasons that did not qualify her to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 8, 2004. The claimant participated in the hearing with her attorney, Ronnie Podolefsky. The claimant chose not to participate in the hearing. During the hearing, Claimant's Exhibits A through M were offered. As of the date of this decision Claimant's Exhibits A through M are admitted as evidence. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit her empowerment for reasons that qualify her to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer in April 1992. She worked as a full-time electrician's helper assistant. Ed Albert was her most recent supervisor.

During her employment, the claimant experienced numerous incidents where co-workers harassed and discriminated against her. In March 2003, she lodged a formal written complaint with the employer about the harassment she encountered at work. The claimant does not know what, if any, action the employer took to address the claimant's complaint. The problems the claimant encountered with her co-workers became worse, from the claimant's perspective, after March 2003. In October 2003, the claimant became so distraught about the problems she endured at work she was hospitalized.

On December 12, 2003, the claimant was in a meeting after she reported her supervisor violated a safety rule. In the middle of the meeting, the claimant's supervisor came in very upset. He indicated he could not handle the claimant and did not want to work with her any longer. When the claimant asked why the employer allowed him to keep harassing her, the employer did not say anything to her. Instead, someone escorted her supervisor out of the meeting. A short time later, a human resource employee talked to the claimant in the women's locker room. During this conversation, the human resource employee indicated the claimant should excuse her supervisor's behavior because he was upset that he had been called to the safety meeting about a safety violation.

The claimant was upset about the December 12 incident, but she went to the work the next day. After the claimant punched in a couple minutes late, the head electrician would not tell her what job she needed to be do. The claimant finally learned from another person what work needed to be done. The claimant went to find her co-workers to decide on a plan of action for the project. The claimant found her male counterparts discussing work in a huddle. When the claimant joined the group, the men walked away and regrouped in another area. The claimant concluded her male co-workers intentionally excluded her at work.

As a result of what had occurred on December 12 and the actions of her co-workers on December 13, the claimant left work about 7:00 a.m. on December 13, 2003. The claimant did not return. The claimant submitted her resignation letter on December 19, 2003. The claimant's resignation letter indicated she quit because the stress from discrimination and harassment at the workplace, which the employer did nothing about, became too much for the claimant and she was quitting for health reasons. The claimant established a claim for unemployment insurance benefits during the week of December 14, 2004.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause. Iowa Code §96.5-2-a. The claimant voluntarily quit on December 13, 2003, when she left work at 7:00 a.m. on December 13 and did not return. When a claimant voluntarily quits employment, she has the burden to establish she quit with good cause attributable to the employer. Iowa Code §96.6-2.

The law presumes a claimant voluntarily quits employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The evidence establishes the claimant quit her employment for reasons that qualify her to receive unemployment insurance benefits. The claimant tried to resolve problems with her employment by reporting concerns to the employer's human resource department. The claimant did not notice any improvement at work. Instead, the claimant concluded that problems at work increased. As of December 14, 2003, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's January 15, 2004 decision (reference 01) is reversed. The claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits. As of December 14, 2003, the claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/b