

**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**

**FOLESA D HICKMAN
1908 TAYLOR DR
IOWA CITY IA 52240**

**ADVANCE AMERICA
2054 – 8TH ST
CORALVILLE IA 52241**

**Appeal Number: 04A-UI-07922-RT
OC: 05-23-04 R: 03
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 Quitting

STATEMENT OF THE CASE:

The claimant, Folesa D. Hickman, filed a timely appeal from an unemployment insurance decision dated July 14, 2004, reference 02, denying unemployment insurance benefits to her. After due notice was issued, a telephone hearing was held on August 12, 2004 with the claimant participating. Carisa Driscoll, Branch Manager in Coralville, Iowa, participated in the hearing for the employer, Advance America. The administrative law judge takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: The claimant was employed by the employer as a full-time assistant manager from June 9, 2004 until she voluntarily quit on June 21, 2004. On that day, the claimant just did not show up for work and has not returned and offered to go back to work since that time. The claimant quit because she did not like to go out on field calls for collections. When the claimant was hired, she was told that she would be doing payday loans in the branch office and collections in the branch office and out of store marketing and could do some field calls for collections but this was voluntary and she did not have to do them. However, during the claimant's training, she was taken on five field calls by the employer's witness, Carisa Driscoll, Branch Manager in the Coralville, Iowa, location. Ms. Driscoll took the claimant merely so the claimant could see what Ms. Driscoll had to do. Field calls were the responsibility of Ms. Driscoll and not the claimant. Ms. Driscoll did inform the claimant of a couple of bad things that had happened on field calls but none happened to the claimant. The claimant was only taken on five field calls over two days spending approximately one hour each on the field calls. Nevertheless, the claimant did not like the field calls and quit. The claimant never expressed any concerns to the employer about these matters nor did she ever indicate or announce an intention to quit. If the claimant had shown up for work as expected on June 21, 2004, work would have been available to her.

REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant's separation from employment was a disqualifying event. It was.

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 24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

871 IAC 24.25 provides:

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.

871 IAC 24.25(21) provides:

(21) The claimant left because of dissatisfaction with the work environment.

871 IAC 24.25(27) provides:

(27) The claimant left rather than perform the assigned work as instructed.

The parties concede that the claimant left her employment voluntarily. The issue then becomes whether the claimant left her employment without good cause attributable to the employer. The administrative law judge concludes that the claimant has the burden to prove that she has left her employment with the employer herein with good cause attributable to the employer. See Iowa Code Section 96.6-2. The administrative law judge concludes that the claimant has failed to meet her burden of proof to demonstrate by a preponderance of the evidence that she left her employment with the employer herein with good cause attributable to the employer. The claimant testified that she left her employment because she did not like to go on field calls. However, the employer's witness, Carisa Driscoll, Branch Manager in Coralville, Iowa, credibly testified that the claimant was told when she was hired that she could do field calls but they were voluntary and she did not have to do them. The claimant's testimony to the contrary is not as credible as that of Ms. Driscoll. The claimant did accompany Ms. Driscoll on five field calls in two days, each field call taking approximately one hour each. Ms. Driscoll took the claimant on these field calls to show the claimant what Ms. Driscoll did. The field calls were Ms. Driscoll's responsibility and not that of the claimant's. Ms. Driscoll informed the claimant that she was taking her on these field calls merely to show the claimant what Ms. Driscoll did. Again, the claimant's testimony to the contrary is not as credible as that of Ms. Driscoll. The claimant did not indicate initially in her testimony that when she went on these field calls that she was accompanied in every case by Ms. Driscoll but conceded that later after Ms. Driscoll had testified. Ms. Driscoll did explain to the claimant some of the bad things that might happen on a field call but none did occur to the claimant. There was no other reason for the claimant's quit. The claimant never expressed any concerns to the employer about these matters, including Ms. Driscoll, nor did the claimant ever indicate or announce an intention to quit if any concerns she had were not addressed by the employer. The claimant never gave the employer an opportunity to address her concerns or assure the claimant that she would not be making field calls if she did not want to. The claimant simply just quit coming to work.

The administrative law judge concludes on the evidence here that there is not a preponderance of the evidence that the employer willfully breached its contract of hire with the claimant. There is also not a preponderance of the evidence that the claimant's working conditions were unsafe, unlawful, intolerable or detrimental. Rather, it appears that the claimant left her employment because she was dissatisfied with her work environment and left rather than do the assigned work as instructed, in accompanying Ms. Driscoll on a few field calls. The administrative law judge must conclude on the evidence here that the claimant was not going to be expected to go on field calls but was merely being shown what the field calls were like. Additionally, the claimant never gave the employer any opportunity to address any of her concerns prior to her

quit. Accordingly, and for all the reasons set out above, the administrative law judge concludes that the claimant left her employment voluntarily without good cause attributable to the employer and, as a consequence, she is disqualified to receive unemployment insurance benefits. Unemployment insurance benefits are denied to the claimant until or unless she requalifies for such benefits.

DECISION:

The representative's decision of July 14, 2004, reference 02, is affirmed. The claimant, Folesa D. Hickman, is not entitled to receive unemployment insurance benefits, until or unless she requalifies for such benefits, because she left her employment voluntarily without good cause attributable to the employer.

tjc/b