

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

COURTNEY R HAIGOOD
515 BENTON AVE E
ALBIA IA 52531-2116

A. Y. M. INC
1701 HWY 5 S
ALBIA IA 52531

Appeal Number: 06A-UI-05484-DT
OC: 04/30/06 R: 03
Claimant: Appellant (5)

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 Leaving

STATEMENT OF THE CASE:

Courtney R. Haigood (claimant) appealed a representative's May 18, 2006 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from A. Y. M., Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 13, 2006. The claimant participated in the hearing. Marlene Dobraska appeared on the employer's behalf. Based on the evidence, the arguments of the parties, 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 for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on March 14, 2006. She worked full time as an administrative assistant in the employer's gas valve and meter bar manufacturing business. Her last day of work was April 26, 2006.

After returning from lunch that day, a Wednesday, the claimant received a call that her child who was in the legal custody of the claimant's ex-husband in Texas was in jeopardy of being placed in foster care due to the arrest of the claimant's ex-husband. She determined to leave immediately to seek custody of her child. She spoke briefly and quickly with Ms. Dobraska, the employer's human resources representative, before leaving, and both hoped that the claimant would be gone only a few days, and Ms. Dobraska gave the claimant leave to go. On Monday, May 1, the claimant called Ms. Dobraska and indicated that things would not be resolved as quickly as hoped, and there was a court date scheduled for May 11, so the soonest the claimant could return to Iowa would be about May 15. Ms. Dobraska explained that the company could not extend the claimant's leave that long, particularly given the claimant's short period of employment. The claimant indicated that she had no choice but to stay in Texas for the court hearing, which she did.

The claimant returned to Iowa approximately May 16 and contacted Ms. Dobraska on or about May 18 to see if she could return to her position. She explained that she did have to return to Texas for another court date on May 26, so Ms. Dobraska suggested that she check back to see if employment was available after she concluded the legal procedures. The claimant did not recontact Ms. Dobraska after May 26 as yet another court date was set for July 29.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit, and if so, whether it was for good cause attributable to the employer.

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 provides that, 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 rationale is that the separation is instigated by some action of the employee which causes the employee to fail to continue working, rather than the employer. The claimant did express her intent not to return to work with the employer due to needing to deal with the child custody issue. A voluntary leaving of employment requires an intention to terminate the employment relationship. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). The claimant did exhibit the intent to quit and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code section 96.6-2.

Iowa Code section 96.5-1-f 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. But the individual shall not be disqualified if the department finds that:

f. The individual left the employing unit for not to exceed ten working days, or such additional time as may be allowed by the individual's employer, for compelling personal reasons, if so found by the department, and prior to such leaving had informed the individual's employer of such compelling personal reasons, and immediately after such compelling personal reasons ceased to exist the individual returned to the individual's employer and offered the individual's services and the individual's regular or comparable work was not available, provided the individual is otherwise eligible; except that during the time the individual is away from the individual's work because of the continuance of such compelling personal reasons, the individual shall not be eligible for benefits.

871 IAC 24.25(20) 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:

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

While the claimant had a compelling personal reason for leaving the employer, her absence has exceeded ten working days. The claimant has not satisfied her burden. Benefits are denied.

DECISION:

The representative's May 18, 2006 decision (reference 01) is modified with no effect on the parties. The claimant voluntarily left her employment without good cause attributable to the employer. As of April 30, 2006, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

ld/kkf