

**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 L MIKLA
6604 CRESTHILL DR
DAVENPORT IA 52806-1566**

**IOC SERVICES
1641 POPPS FERRY RD #B-1
BILOXI MS 39532-2226**

**Appeal Number: 06A-UI-02126-CT
OC: 01/29/06 R: 04
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 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:

Cindy Mikla filed an appeal from a representative's decision dated February 15, 2006, reference 01, which denied benefits based on her separation from IOC Services. After due notice was issued, a hearing was held by telephone on March 14, 2006. Ms. Mikla participated personally. The employer did not respond to the notice of hearing.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Mikla was employed by IOC Services from April 19, 2004 until January 22, 2006 as a full-time waitress. She notified the employer at the time of hire that she would need at least two consecutive days off each week to avoid problems

with swelling in her knees caused by arthritis. The employer agreed to this condition and scheduled Ms. Mikla accordingly until approximately October of 2005. When the employer began scheduling her days off apart in October of 2005, she gave notice that she was quitting. She met with her supervisor and the food and beverage manager and it was agreed that Ms. Mikla would have two consecutive days off as originally agreed.

The food and beverage manager who hired Ms. Mikla left the employment in December of 2005. Thereafter, the employer began sometimes scheduling Ms. Mikla for separated days off. She notified her supervisor that she would quit if the employer failed to allow her to have two consecutive days off each week. She made the supervisor aware that having less than two days off consecutively caused increased pain and swelling in her knees. When the employer failed to make changes in the scheduling, Ms. Mikla quit.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Mikla was separated from employment for any disqualifying reason. An individual who voluntarily quits employment 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. Mikla accepted employment with the understanding that she would be allowed to have at least two days off consecutively. The employer knew that scheduling her otherwise would result in her leaving the employment as she had attempted to quit over the issue in October of 2005. At that time, the employer reaffirmed its agreement to schedule Ms. Mikla as originally planned.

The employer breached its commitment to schedule Ms. Mikla's days off consecutively so as to minimize the effects of her work on her knees. The breach constituted a substantial change in the terms and conditions under which she accepted the employment. As such, she had good cause attributable to the employer for quitting. Accordingly, benefits are allowed.

DECISION:

The representative's decision dated February 15, 2006, reference 01, is hereby reversed. Ms. Mikla voluntarily quit her employment for good cause attributable to the employer. Benefits are allowed, provided she satisfies all other conditions of eligibility.

cfc/kkf