

**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**

**BONNIE S LASH
1706 ARMORY AVE
CHARITON IA 50049**

**ELLIOTT OIL COMPANY
PO BOX 473
OTTUMWA IA 52501**

**Appeal Number: 06A-UI-01567-RT
OC: 01-15-06 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, Bonnie S. Lash, filed a timely appeal from an unemployment insurance decision dated February 1, 2006, reference 01, denying unemployment insurance benefits to her. After due notice was issued, a telephone hearing was held on February 27, 2006, with the claimant participating. Donise Altenhofen, Manager, participated in the hearing for the employer, Elliott Oil Company. Employer's Exhibit One was admitted into evidence. 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 cashier from February of 2004 until she voluntarily quit on December 30, 2005. On that day the claimant simply failed to come to work. The claimant never returned to work thereafter. The claimant never told anyone that she was quitting. The claimant quit because she had "had enough of it" from the employer. The claimant alleged that no one would do his or her work except for the claimant and that she did the job of two persons but was paid for one. However, the employer attempted to maintain a teamwork atmosphere and everyone was supposed to do their work and for the most part did so. The claimant constantly complained about these matters to co-workers but only occasionally would voice them to the manager, Donise Altenhofen, the employer's witness. The claimant also testified that she quit because it was hard to get replacements when she was absent but the evidence establishes that Ms. Altenhofen would frequently get replacements for the claimant when she was unable to work. The claimant also testified that she was often asked to work extended shifts or at other times unexpectedly. However, the claimant, whenever asked, would always consent without objection and then complain about it later.

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 24.25(6), (21) provide:

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:

- (6) The claimant left as a result of an inability to work with other employees.
- (21) The claimant left because of dissatisfaction with the work environment.

The parties agree, and the administrative law judge concludes, 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 “had enough of it.” The claimant explained that she believed she would have to do the work of two persons and that no one else would work. However, the evidence establishes that the employer attempted to establish a teamwork atmosphere and that sometimes individuals would not do as much work as they should but that generally everyone was supposed to do their own work and did so and that the claimant’s complaints were not justified. The claimant complained frequently to her co-workers but rarely to Ms. Altenhofen, Manager and the employer’s witness. The claimant also testified that she was unable to get replacements for her shift when she was unable to work. However, Ms. Altenhofen credibly testified that whenever the claimant needed to be off that Ms. Altenhofen would find replacements. The claimant then testified that she would work extended shifts when others could not work. However, the evidence establishes that the claimant, when asked to do so, would consent without objection but that later, thereafter, she would complain.

The administrative law judge concludes that there is not a preponderance of the evidence that these matters made the claimant’s working conditions unsafe, unlawful, intolerable or detrimental or subjected her to a substantial change in her contract of hire. Occasional dissatisfaction with co-workers is not uncommon. Ms. Altenhofen credibly testified that she stressed teamwork and that for the most part everyone did their jobs but occasionally some people would not, especially when they were busy. The administrative law judge understands this. The evidence establishes that when the claimant needed to be off that she could get a replacement and that she herself would consent to work extended shifts without objection. The administrative law judge concludes that the claimant should not now be able to complain about those extended shifts when she agreed to work them without objection but only complained thereafter. The administrative law judge concludes that the claimant really quit because of an inability to work with other employees and because of a dissatisfaction with the work environment but these are not reasons establishing good cause attributable to the employer. Accordingly, 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 February 1, 2006, reference 01, is affirmed. The claimant, Bonnie S. Lash, 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.

kkf/tjc