

**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**

**RANDALL ANDERSON  
980 EISENHOWER ROAD  
APARTMENT 17  
HIAWATHA IA 52233**

**OFFICE DEPOT INC  
C/O FRICK UC EXPRESS  
P O BOX 283  
ST LOUIS MO 63166-0283**

**Appeal Number: 04A-UI-03441-ET  
OC 02-08-04 R 03  
Claimant: Respondent (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, 2<sup>nd</sup> 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  
Section 96.3-7 – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The employer filed a timely appeal from a decision dated March 16, 2004, reference 04, that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 19, 2004. The claimant participated in the hearing. Teresa Kuch, Assistant Manager, participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

Having heard the testimony and examined the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time furniture specialist for Office Depot from February 18, 2002 to January 7, 2004. The claimant was scheduled to work every other weekend, or at least two weekends per month, during the course of his employment with Office Depot. In mid-December 2003, Assistant Manager Teresa Kuch told the claimant she was scheduling him the following four Saturdays because the employer was short-handed due to the fact the college students that usually worked weekends were going home for their holiday break. After working the third Saturday in a row the claimant complained to Ms. Kuch about his schedule January 3, 2004, and she told him they could discuss it with the store manager on Monday. The store was busy January 5 and 6, 2004, and neither Ms. Kuch nor the claimant talked to the store manager about the situation. On January 7, 2004, the claimant noticed that the schedule had not been changed. He told Ms. Kuch it was “fucking bullshit” and she could “take the fucking job and shove it up (her) ass,” before throwing his weight belt across the room and walking out.

The claimant has received unemployment insurance benefits since his separation from this employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

1

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(21). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code Section 96.6-2. While the claimant argues he was not supposed to

be scheduled on weekends, the employer credibly testified he had been scheduled at least every other weekend since beginning his employment. Although the claimant objected to being scheduled four Saturdays in a row beginning in mid-December 2003, the employer was short-handed during the holiday season and it was not unreasonable for it to schedule the claimant to work Saturdays during that time period as it scheduled every non-student employee. The claimant had worked three of the scheduled four Saturdays at the time he lodged a complaint with Ms. Kuch and the employer was willing to work with the claimant regarding the schedule but he became angry, behaved inappropriately and quit before they could meet to discuss the situation. The administrative law judge concludes these temporary circumstances do not constitute a substantial change in the claimant's contract of hire and being required to work four Saturdays in a row, rather than every other Saturday, during a busy retail holiday season is not good cause attributable to the employer for his leaving. Consequently, benefits are denied.

Ref 41

Because the claimant's separation was disqualifying, benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law.

DECISION:

The March 16, 2004, reference 04, decision is reversed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant is overpaid benefits in the amount of \$1,788.00.

je/