

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**DEBBIE A AVERY**  
Claimant

**APPEAL NO. 07A-UI-01135-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HY-VEE INC**  
Employer

**OC: 12/24/06 R: 03  
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated January 22, 2007, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 15, 2007. Claimant participated. Employer participated by David Williams, TALX, Hearing Representative; Brooke Farrell, Assistant Manager General Merchandise; Gail Narber, Manager General Merchandise; Jeff Sesker, Store Director; and Sarah Lloyd, Human Resources Coordinator. Claimant responded to the hearing notice and did not participate, as she was not available at the number provided.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant last worked for employer on August 16, 2006. Claimant was a full-time HBC manager. Claimant worked 40 hours per week starting work at 6:00 a.m. Monday through Friday. After claimant returned from maternity leave, employer significantly modified claimant's work hours and duties. Employer changed the start time, days worked, and added substitute cashier responsibilities. Claimant refused the change in job duties. After claimant complained to human resources, employer offered claimant an accommodation which still included a change in work hours and cashier duty. Claimant declined the offer of accommodation. Claimant had been with the company for five years.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of a significant change in the contract of hire. Employer's change in days worked, job responsibilities, and shift start time are significant. Even the accommodation included a change in the type of work performed. The negotiated offer of work is not a new offer

of work within the meaning of 96.5-3-a, as it was negotiated by employer based on the prior position. It was the same position that employer had previously modified which caused claimant to separate from employment. Employer cannot re-offer the same job which brought about the separation in the first place to avoid responsibility for unemployment. This is a separation for cause attributable to employer. Benefits allowed.

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.

**DECISION:**

The decision of the representative dated January 22, 2007, reference 01, is affirmed. Unemployment insurance benefits are allowed provided claimant is otherwise eligible.

---

Marlon Mormann  
Administrative Law Judge

---

Decision Dated and Mailed

mdm/kjw