

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

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A TO Z CORPORATION  
A TO Z DAYCARE & LEARNING CENTER  
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Appeal Number: 04A-UI-04356-LT  
OC 08-03-04 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the April 13, 2004, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on May 10, 2004. Claimant did participate. Employer did participate through Chris York and Meloney Eiffler-Fealmen.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time childcare provider through March 29, 2004 when she quit. Meloney Eiffler-Fealmen, Supervisor, put claimant on suspension on Monday, March 29 because she was talking about things with another staff member when she had children in her care she was supposed to be watching. Claimant was made aware it was a three-day

suspension but Eiffler-Fealmen was unable to tell her precisely when to return to work because claimant kept interrupting her. She told claimant her children could not stay in care that day and had to ask claimant repeatedly to leave. On her way out, claimant said to Amber Loveland and another employee, "Bye guys, I probably will not be back." Employer told claimant to think about her future employment because it would not tolerate the gossip, especially in front of children and their parents.

Claimant called Chris York the same day and acknowledged that she was suspended for three days and complained that Eiffler-Fealmen raised her voice at claimant during the suspension. York offered a meeting between the three of them. Claimant responded that she was "not coming back to work for you and am not going to work for this company or anyone who screams and yells at me." York said that if she was leaving her employment that she had nothing further to discuss and hung up. On March 31, claimant attempted to rescind her resignation, but employer declined as the resignation had already been accepted on March 29. Continued work was available had claimant not resigned on March 29.

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without 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(28), (38) 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:

(28) The claimant left after being reprimanded.

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

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 (amended 1998).

The claimant's acknowledgement of the duration of the suspension lends credibility to employer's version of the events. Claimant was not calling employer in an attempt to find out when she should return to work after the suspension but to ask for her job back and attempt to rescind her resignation. Her impetuous decision to quit after having been reprimanded was not a good-cause reason attributable to the employer for leaving. Employer was under no obligation to allow her to return to work after it had accepted the resignation. Benefits are denied.

**DECISION:**

The April 13, 2004, reference 02, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

dml/kjf