

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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ELECTRONIC DATA SYSTEMS CORP
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Appeal Number: 05A-UI-08364-SWT
OC: 07/17/05 R: 02
Claimant: Respondent (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 Quit

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated August 5, 2005, reference 01, that concluded the claimant voluntarily quit employment with good cause attributable to the employer. A telephone hearing was held on August 30, 2005. The parties were properly notified about the hearing. The claimant participated in the hearing. Thomas Morrissey participated in the hearing on behalf of the employer with a witness, Sharon Casebolt.

FINDINGS OF FACT:

The claimant worked full time for the employer from September 1985 to July 15, 2005. She worked for three years as a telephone representative answering questions for clients. She was promoted to the position of client account associate working for a client called Main Street and

worked in that position until 1999, when she was promoted to the position of account specialist. As an account specialist, the claimant was paid \$41,396.00 per year salary.

In the spring of 2005, the claimant was informed that Main Street was no longer going to be a client for the employer and there would be a change in her assignment. In late June 2005, the claimant's supervisor informed her that her job with Main Street would be ending in July 2005. The supervisor informed the claimant that the only openings the employee had were for a telephone representative and a warehouse clerical worker. The claimant asked if there were any other options but was told that the employer had no other positions available. Although pay was not discussed, the employer would not have reduced the claimant's pay if she had taken the other jobs.

The claimant informed the employer that she was not going to accept the other positions and quit her employment effective July 15, 2005. She did not accept the telephone representative or warehouse clerical jobs because they involved a substantial change in job duties and lesser skills.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit 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 24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

The evidence establishes that the job offered by the employer involved a substantial change in the claimant's job duties and lesser skills than her previous job. The Iowa Supreme Court in Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993), established conditions that must be met to prove a quit was with good cause when an employee quits due to a substantial change in the employment contract. First, the employee must notify the employer of the unacceptable change. Second, the employee must notify the employer that she intends to quit if the change is not corrected. The evidence establishes that the claimant took the reasonable step of notifying her employer about her dissatisfaction with the change in her job and asked if

there were any other options but was told that there were no other options. Good cause for quitting employment has been established in this case.

DECISION:

The unemployment insurance decision dated August 5, 2005, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

saw/kjw