

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

LINDA S SPEAKE
1309 N 6TH ST
BURLINGTON IA 52601

LOWE'S HOME CENTERS INC
C/O TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-04492-C
OC: 04/03/05 R: 04
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 Quit

STATEMENT OF THE CASE:

Linda Speake filed an appeal from a representative's decision dated April 20, 2005, reference 01, which denied benefits based on her separation from Lowe's Home Centers, Inc. (Lowe's). After due notice was issued, a hearing was held on June 13, 2005 in Burlington, Iowa. Ms. Speake participated personally. The employer participated by Karen Taylor, Human Resources Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Speake was employed by Lowe's from April of 1997

until April 2, 2005. She was last employed full time as a flooring associate. She voluntarily quit the employment.

Ms. Speake's decision to quit was prompted by management's response to a complaint she made regarding Joshua, a coworker. Joshua had called her at home during the early morning hours of March 18 to see if she would cover his shift because he was in Chicago on an emergency. She agreed to do so and hung up before realizing that she had too many hours in that week to cover for him. Ms. Speake checked her caller identification device and noted that the call from Joshua had originated in Burlington, Iowa. She felt Joshua had deliberately misled her and voiced her complaint to management. When she later questioned the manager as to what action had been taken on her complaint, she was told that it was none of her business. Ms. Speake felt the manager's response was rude and, therefore, tendered her two-week's notice.

Ms. Speake's decision to quit was also based on the fact that her wages had been reduced in October of 2004. In August of 2004, she agreed to step down from a salaried position to an hourly one on the condition that she not suffer any reduction in wages. The employer agreed that her wages would not be reduced. However, in October, the employer learned from the corporate office that Ms. Speake could not be retained at the same level of pay and reduced her wages by \$.60 per hour. She did not indicate to the employer that she would quit if not retained at her former pay. In June of 2004, Ms. Speake was given a written warning because it was felt she had entered information into the customer database incorrectly. She was later told that the warning would be removed. As of the date of separation, she was under the impression that the warning had, in fact, been removed from her file.

Before giving her two week's notice, Ms. Speake had not put the employer on notice that there were work-related problems that might cause her to quit if not corrected. Continued work would have been available if she had not quit.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Speake was separated from employment for any disqualifying reason. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). After considering all of the evidence, the administrative law judge concludes that good cause attributable to the employer has not been established. The decision to quit was triggered by the store manager's statement when Ms. Speake asked about the situation involving Joshua. Personnel matters, such as discipline, are usually private between management and the effected employee. Therefore, it was reasonable for the manager to advise Ms. Speake that the matter of Joshua's discipline was none of her concern. Although he could have at least told her that the matter was being dealt with, his response was not so outrageous as to constitute good cause for quitting.

The matter of Ms. Speake's wages being reduced occurred in October. She remained in the employment for at least another five months with no notice to the employer that she was contemplating quitting because of the reduction. By continuing in the employment in spite of the wage reduction, Ms. Speake acquiesced to the employer's actions. Although she had received what she felt was an unwarranted warning in June of 2004, Ms. Speake was under the impression that it had been removed from her file. Therefore, the unwarranted warning could not have formed a basis for her decision to quit.

For the reasons stated herein, the administrative law judge concludes that Ms. Speake did not have good cause attributable to Lowe's for quitting. Accordingly, benefits are denied.

DECISION:

The representative's decision dated April 20, 2005, reference 01, is hereby affirmed. Ms. Speake voluntarily quit her employment with Lowe's for no 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 job insurance benefit amount, provided she satisfies all other conditions of eligibility.

cfc/sc