

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

CYNTHIA V COMEAUX
PO BOX 122
KNOXVILLE IA 50138

SECURITAS SECURITY SERVICES
USA INC
c/o SHEAKLEY UNISERVICE INC
PO BOX 429503
CINCINNATI OH 45242

Appeal Number: 05A-UI-03870-AT
OC: 03-06-05 R: 02
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
871 IAC 24.22(2)j – Unemployment Insurance Consequences of Leaves of Absence

STATEMENT OF THE CASE:

Cynthia V. Comeaux filed a timely appeal from an unemployment insurance decision dated April 6, 2005, reference 04, which disqualified her for benefits. After due notice was issued, a telephone hearing was held on May 6, 2005 with Ms. Comeaux participating. Human Resources Manager Andrea Carr participated for the employer, Securitas Security Services USA, Inc., which was represented by Dave Schwab of Sheakley Uniservice, Inc.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Cynthia V. Comeaux was hired by Securitas Security Services USA, Inc. in September 2004. She worked as a security guard at the 3M plant in Knoxville, Iowa. On January 23, 2005, she began a leave of absence to handle her mother's estate in Louisiana. She had initially anticipated being gone for only one week. It soon became evident that she would need more time. Ms. Comeaux spoke with her on-site supervisor, Sandy Smith and with Chelsea Greenfield, who was then the Human Resources Manager. Ms. Comeaux was reminded in these conversations that company policy allows only a 30-day leave of absence. Ms. Comeaux did not return within 30 days of January 23, 2005. When she returned in early March, she found that another person had been hired to fill her position.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant's separation from employment was a disqualifying event. It does.

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.

The unemployment insurance treatment of a leave of absence is found at 871 IAC 24.22(2)j. Subparagraph 2 of that rule provides that if an individual fails to return at the end of a leave of absence and thus becomes unemployed the separation is considered to be a quit without good cause attributable to the employer.

The evidence in this record persuades the administrative law judge that Ms. Comeaux, knowing the consequences of being gone over 30 days, did not return to the employer at the end of the leave of absence. The law requires disqualification for benefits under the circumstances.

DECISION:

The unemployment insurance decision dated April 6, 2005, reference 04, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

pjs/pjs