

**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**

**COLLEEN E EASTWOOD  
117 N 19<sup>TH</sup> ST  
FORT DODGE IA 50501**

**FORT DODGE OHM LLC  
822 CENTRAL AVE #400  
FORT DODGE IA 50501**

**WILLIAM THATCHER  
ATTORNEY AT LAW  
PO BOX 1413  
FORT DODGE IA 50501-1413**

**Appeal Number: 05A-UI-05334-A  
OC: 04-24-05 R: 01  
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, 4<sup>th</sup> 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 Quit

STATEMENT OF THE CASE:

Fort Dodge Ohm (Ohm) filed a timely appeal from an unemployment insurance decision dated May 12, 2005 reference 01 which allowed benefits to Colleen E. Eastwood. After due notice was issued, a hearing was held in Fort Dodge, Iowa on August 2, 2005 with Ms. Eastwood participating. William Thatcher, attorney at law, appeared on behalf of the employer. Co-owners Mahesh Kumar and Jay Thakor testified. Exhibits A through J were admitted into evidence. This matter is considered on a consolidated record with 05A-UI-05332-A, 05A-UI-05333-A; and 05A-UI-05335-A.

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: Colleen E. Eastwood was employed as a part-time cashier by Ohm from June 9, 2004 until she resigned April 19, 2005. Shortly before the resignation, Co-Owner Jugal Raval called the store late at night intoxicated, threatening to discharge Ms. Eastwood and her co-worker because his son had told him of rumors at school that they were selling cigarettes to minors. The store had recently received a commendation from the Governor for successfully passing a sting operation in which a minor was sent into the store by law enforcement authorities in an attempt to purchase cigarettes. No cigarettes had been sold to the minor.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that the claimant resigned with good cause attributable to the employer. 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 claimant has the burden of proof. See Iowa Code section 96.6-2. Ms. Eastwood's testimony was corroborated by her Co-worker Lindsay Dunphy, claimant in one of the companion cases. While two of Ohm's co-owners were present to testify, Mr. Raval was not present. No explanation for his absence was given. The claimant's testimony has not been contradicted.

The employer's behavior crossed the line from management of the operation to harassment and intimidation of Ms. Eastwood and her co-worker. The evidence establishes that the employer created detrimental and intolerable working conditions. Benefits are allowed.

DECISION:

The unemployment insurance decision dated May 12, 2005 reference 01 is affirmed. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible.

sc/pjs