

**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**

**TONYA J RATHBONE
3637 ECHO AVE
OSAGE IA 50461**

**DEVELOPMENTAL RESOURCES INC
NORTH CENTRAL HUMAN SERVICES INC
102 W PARK ST
FOREST CITY IA 50436-2132**

**Appeal Number: 04A-UI-10707-CT
OC: 09/28/03 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

STATEMENT OF THE CASE:

Tonya Rathbone filed an appeal from a representative's decision dated October 1, 2004, reference 03, which denied benefits based on her separation from Developmental Resources, Inc. After due notice was issued, a hearing was held by telephone on October 25, 2004. Ms. Rathbone participated personally. The employer participated by Connie Gremmer, Human Resources Coordinator.

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. Rathbone was employed by Developmental Resources,

Inc. as a full-time residential counselor from July 28, until October 3, 2003. She had been missing a substantial amount of work because her minor child was having medical problems. Her daughter was having to make repeated visits to the Mayo Clinic in Rochester, Minnesota. Ms. Rathbone decided to quit because of the amount of work she was missing.

The employer had never disciplined Ms. Rathbone as a result of her absences as the employer understood the medical situation with her child. When Ms. Rathbone quit, she did not speak with her supervisor but left a telephone message with a coworker. There were no promises made that she would be able to return to her regular job at some later point. Continued work would have been available if Ms. Rathbone had not quit.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Rathbone 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). Ms. Rathbone had the burden of proving that her quit was for good cause attributable to the employer. Iowa Code section 96.6(2). The term "good cause attributable to the employer" generally refers to some matter over which the employer had control. Ms. Rathbone quit because she was missing a substantial amount of work due to her daughter's illness. However, her resignation was not requested by the employer and she had not been disciplined for missing work to attend to her child's medical needs. It appears that the employer was accommodating her need to be absent. Therefore, it was not necessary for Ms. Rathbone to quit her job in order to continue being with her child for medical treatment.

An individual who leaves employment because of serious family needs or responsibilities is presumed to have quit for no good cause attributable to the employer. See 871 IAC 24.25(23). For the reasons stated herein, the administrative law judge concludes that Ms. Rathbone has failed to establish that she had good cause attributable to the employer for quitting. Accordingly, benefits are denied.

DECISION:

The representative's decision dated October 1, 2004, reference 03, is hereby affirmed. Ms. Rathbone quit her employment 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/pjs