

**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**

**CATHY A DAVIS
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ZEARING IA 50278**

**PA ACQUISITION CORP
THE PAPER FACTORY/PARTY AMERICA
980 ATLANTIC AVE STE 103
ALAMEDA CA 94501**

**Appeal Number: 05A-UI-08007-DWT
OC: 07/03/05 R: 02
Claimant: Appellant (2)**

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:

Cathy A. Davis (claimant) appealed a representative's July 26, 2005 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of The Paper Factory/Party America (employer) would not be charged because the claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 23, 2005. The claimant participated in the hearing. The employer failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which the employer's representative/witness could be contacted to participate in the hearing. As a result, no one represented the employer. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The claimant started working for the employer on September 17, 2002. The claimant worked as a full-time store manager. The employer hired her at the top of the salary range because of her prior experience. For at least a couple of years the claimant asked the employer to put any raise she was entitled to receive into extra payroll hours because she needed more help. The employer declined to do this.

In February 2005, another corporation acquired the employer's businesses. The claimant continued working as the store manager. The new corporate entity added some job duties to the claimant's job and required her to send part-time employees home when the store was unable to make its daily sales quota. Prior to and subsequent to February 2005, the claimant had 64 payroll hours to schedule, but after February 2005 she had to send employees home when the store did not meet the daily sales quota. Since the claimant's store was a low volume store, her district manager suggested that she not schedule employees. This left the claimant working alone the majority of the time.

In addition to additional reports the new corporate entity required the claimant to complete, her store received about two times more merchandise after February 2005. With the added job duties and being unable to utilize her 64 payroll hours, the claimant was often the only person in the 3600 square foot store doing the work.

In May 2005, the claimant asked her supervisor for more payroll hours during the times freight came. The district manager indicated this was not possible. The claimant then had surgery and returned after a week. On June 7, the claimant asked for ten more payroll hours when there was freight to put away. Again, the district manager declined the claimant's request.

On June 7, the claimant decided to quit as of June 28 because she could not physically continue to run the store primarily by herself. The claimant informed her district manager on June 7 that she was resigning. After the claimant resigned, the employer did not hire another store manager. Instead, part-time employees run the store.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code §96.5-1. The claimant voluntarily quit her employment when she submitted her resignation on June 7, 2005. When a claimant quits, she has the burden to establish she quit with good cause attributable to the employer. Iowa Code §96.6-2.

The law presumes a claimant has voluntarily quit with good cause when she quits because of a substantial change in the employment relationship. 871 IAC 24.26(1). The facts establish the claimant had been asking for more help even prior to February 2005 when a new corporate entity took over. As a result in the change of corporate ownership, the claimant's job duties changed. Not only did her duties increase, but also the freight she received doubled and her

district manager advised her not to schedule part-time employees because her store's sales did not permit the employees to work all 64-payroll hours. Even though the claimant asked for more payroll hours (ten) when she was bombarded with freight, the employer denied her request. After the employer denied the claimant's request for any more payroll hours and the work kept increasing, the claimant quit. Under these facts, the claimant established good cause for quitting because her employment substantially changed after February 2005. Therefore, as of July 3, 2005, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's July 26, 2005 decision (reference 01) is reversed. The claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits. As of July 3, 2005, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/pjs