

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

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Appeal Number: 04A-UI-07973-SWT
OC: 06/27/04 R: 03
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:

The claimant appealed an unemployment insurance decision dated July 16, 2004, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on August 18, 2004. The parties were properly notified about the hearing. The claimant participated in the hearing. Julie Benton participated in the hearing on behalf of the employer with a witness, Beverly Lawrence.

FINDINGS OF FACT:

The claimant worked full time for the employer as a janitor from October 21, 2002, to June 1, 2004. On June 1, 2004, the lead person in the department told her that she was receiving two occurrences for being absent without notice on May 29, 2004. This upset the claimant because she did not believe that she was scheduled to work on May 29. She checked with the human resources department about her attendance occurrences and was informed that she had six and two-thirds occurrences. An employee is subject to termination if they reach seven occurrences in a twelve-month period.

The claimant complained to the human resources manager about being given occurrences for a day she was not scheduled to work. The claimant told the human resources manager that she might as well quit because all she needed was to be late one time and she would be terminated. The human resources manager told the claimant not to make a snap decision and allow her a chance to investigate her complaint. She instructed the claimant come in the next day and she would inform the claimant about the results of her investigation. The claimant reluctantly agreed to meet with the human resources manager the next day.

The claimant remained upset by the lead person's treatment of her and believed that the human resources manager would do nothing to resolve the problem. As a result, the claimant left work before the end of her shift and submitted a resignation stating that she was quitting because of the lead worker's dishonesty.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer.

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.

871 IAC 24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

If the employer had not taken any action to resolve the claimant's complaint about her lead worker's treatment of her, she could have shown good cause for quitting due to intolerable working conditions. The claimant quit employment, however, before allowing the human resources manager a chance to investigate and address her complaint. She assumed that nothing would be done, but she should have waited for the investigation to be completed before taking the drastic and sudden action of quitting her job. Good cause attributable to the employer for quitting employment has not been proven in this case.

DECISION:

The unemployment insurance decision dated July 16, 2004, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

saw/kjf