

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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HAWKEYE TAP
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Appeal Number: 04A-UI-02287-MT
OC: 01/04/04 R: 04
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, 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:

Employer filed an appeal from a decision of a representative dated February 23, 2004, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 22, 2004. Claimant participated. Employer participated by Bryan Johnson, Manager, Diana Murphy, Assistant Manager, and Nancy Teel, Owner. Exhibit One was admitted into evidence.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on January 1, 2004. Claimant in

December asked the employer to go from a part-time employee to an on call employee. Employer agreed. After that claimant only worked a couple of days. Employer called claimant to work on January 9, 2004, but claimant had a date she could not cancel. Employer also called claimant in to work on February 2, 2004 but she could not make it in due to a snowstorm. Finally, claimant was called in to work on February 14, 2004, but she also had a date. All of the requests made by employer were on short notice as that is what the on call work entailed. After the last refusal to report to work claimant was deemed a voluntary quit by the employer.

REASONING AND CONCLUSIONS OF LAW:

The issue in this matter is whether claimant quit for good cause attributable to employer. The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when employer terminated the employment relationship because claimant worked on call. Claimant had no obligation to accept any additional work after each on call assignment was completed. That is what on call means within unemployment law. Employer acquiesced to the change in work status from part-time to full time. At that point, claimant need only accept the work she wanted to accept. Then when employer took claimant off the schedule it became a separation issue for good cause attributable to employer. Benefits allowed.

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(22) 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:

(22) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employees shall be considered to have voluntarily quit employment.

DECISION:

The decision of the representative dated February 23, 2004, reference 01, is affirmed. Unemployment insurance benefits are allowed provided claimant is otherwise eligible.

mdm\kjf