

**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**

**LORRIE L BIRMINGHAM
426 TAMA ST #1
BOONE IA 50036**

**OGDEN MANOR
625 E OAK ST
OGDEN IA 50212**

**Appeal Number: 04A-UI-03359-CT
OC: 05/11/03 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:

Lorrie Birmingham filed an appeal from a representative's decision dated March 12, 2004, reference 08, which held she had voluntarily quit her employment for no good cause attributable to the employer. After due notice was issued, a hearing was held by telephone on April 22, 2004. Ms. Birmingham participated personally. The employer participated by Kristi Payne, Administrator.

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. Birmingham was employed by Ogden Manor as a CNA beginning August 21, 2002. She was hired to be a full-time employee. She quit the employment because of stress and because her hours were reduced.

Ms. Birmingham's stress was due, in part, to the fact that she was being disciplined for the same conduct engaged in by others who were not disciplined. She was suspended in January of 2003 because she failed to use a gait belt with a resident. However, a gait belt had never been used on this resident. Following Ms. Birmingham's suspension, the employer decided that a gait belt would not be used on the resident in question. Ms. Birmingham also felt she was yelled at inappropriately by her supervisor. Although she was seeing a doctor, she was not advised to quit her employment.

The employer made cuts in Ms. Birmingham's hours because of low census at the facility. Other employees also had their hours cut. Ms. Birmingham had been working 40 hours per week but was often reduced to working only 20 hours per week. She had advised her supervisor that she would have to quit if not given more consistent full-time hours. When her hours were not restored, Ms. Birmingham notified the then administrator that she was quitting on February 11, 2004.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Birmingham was separated from employment for any disqualifying reason. An individual who leaves employment voluntarily 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. Birmingham quit because of stress and because of the reduction in her hours. The reduction in work hours is sufficient to establish good cause attributable to the employer for quitting. Ms. Birmingham was hired to work 40 hours a week but often only received 20 hours of work. The administrative law judge considers this a substantial change in the terms and conditions of employment as contemplated by 871 IAC 24.26(1). As such, Ms. Birmingham had good cause attributable to the employer for quitting. Accordingly, wage credits earned with Ogden Manor may be used on her claim for job insurance benefits.

DECISION:

The representative's decision dated March 12, 2004, reference 08, is hereby reversed. Ms. Birmingham voluntarily quit her employment with Ogden Manor for good cause attributable to the employer. Wage credits earned with Ogden Manor may be used to determine her weekly and maximum job insurance benefit amounts.

cfc/kjf