

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

DAMARIS T CARTER
2120 SE KING AVE APT 22
DES MOINES IA 50320

HAPPY CHEF SYSTEMS INC
PO BOX 3328
MANKATO MN 56002-3328

AMENDED

Appeal Number: 04A-UI-09948-DWT
OC: 08/08/04 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 are 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:

Damaris T. Carter (claimant) appealed a representative's September 7, 2004 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Happy Chef systems, Inc. (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 20, 2004. 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 witness/representative 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 his employment for reasons that do not qualify him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The employer hired the claimant to work as a second shift cook. The claimant began working in June 2003. The manager who hired the claimant left. A new management team took over and started sending the dishwasher home early during the claimant's shift. When this happened, the claimant was told he had to cook and wash dishes. The claimant complained about this because there were times when he was very busy and he could not keep up with both jobs. The employer denied the claimant's request to be compensated for the additional duties the employer assigned to him. The claimant told the employer he had not been hired to wash dishes, but the employer kept sending the dishwasher home early. The claimant quit his employment on October 13, 2003 because new management changed his job duties by adding the job as dishwasher without any additional compensation.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code §96.5-1. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code §96.6-2.

The law presumes a claimant voluntarily quit employment with good cause when he leaves because of a substantial change in the contract of hire. 871 IAC 24.26(1). At the time of hire, the claimant agreed to work as a cook not a dishwasher. After a new manager became the claimant's supervisor, the employer changed the claimant's job duties to working as a cook and as a dishwasher. When the employer would not give the claimant additional compensation for these additional job duties that were not part of the initial employment contract, the claimant quit. The claimant quit because the employer substantially changed his job duties by adding on more job duties. The claimant quit for reasons that qualify him to receive unemployment insurance benefits.

DECISION:

The representative's September 7, 2004 decision (reference 01) is reversed. The claimant voluntarily quit his employment because of a substantial change in his employment contract. Therefore, as of August 8, 2004, he is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to him.

dlw/tjc/tjc