

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

ASHLEY L ANDREWS  
3830 – 1<sup>ST</sup> ST  
DES MOINES IA 50313-3544

ALTOONA KIDS WORLD DAYCARE  
105 – 3<sup>RD</sup> ST SE  
ALTOONA IA 50009

A ZANE BLESSUM  
ATTORNEY AT LAW  
PO BOX 309  
WINTERSET IA 50273-0309

Appeal Number: 06A-UI-01985-AT  
OC: 01/22/06 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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quitting

STATEMENT OF THE CASE:

Ashley L. Andrews filed a timely appeal from an unemployment insurance decision dated February 10, 2006, reference 01, which disqualified her for benefits. After due notice was issued, a telephone hearing was held on March 30, 2006, with Ms. Andrews participating and being represented by A. Zane Blessum, Attorney at Law. Owner Joyce Morr and Center Director Traci Lovell participated for the employer, Altoona Kids World Daycare. Employer Exhibit One was admitted into evidence.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Ashley L. Andrews was employed as a childcare worker by Altoona Kids World Daycare from August of 2005 until January 26, 2006. In January 2006, Ms. Andrews was receiving continuing medical care as a result of being assaulted at her apartment complex in November 2005. Ms. Andrews was continuing to see her personal physician as well as various specialists. Although she had been released to return to work, she missed work fairly regularly because of doctor appointments. For some doctor appointments, Ms. Andrews was told to bring a driver because of the nature of the medication, treatment or testing to be done. For these appointments, she was dependant on her mother's schedule.

Ms. Andrews spoke with Center Director Traci Lovell on January 26, 2006. Ms. Lovell gave Ms. Andrews an ultimatum that she must schedule her appointments so as to not conflict with her work schedule. Ms. Andrews responded that she could not guarantee that she would be able to do so. No words of discharge or resignation were spoken at that time, but Ms. Andrews left the premises and did not return except to pick up her last paycheck. At that time she signed a letter of resignation.

#### REASONING AND CONCLUSIONS OF LAW:

The first step in analyzing this case is to characterize the separation. Ms. Andrews testified that she felt that she had been discharged but acknowledged that no such words were spoken. While she also spoke no words of resignation, she did, after the fact, sign a resignation letter. From the evidence the administrative law judge concludes that Ms. Andrews was given the choice of scheduling all future doctor appointments around her work hours or to lose her job. Ms. Andrews chose to resign.

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.

An individual may receive unemployment insurance benefits if the individual resigns because of intolerable or detrimental working conditions. Given the nature of Ms. Andrews' medical condition, both its cause and its treatment, the administrative law judge concludes that the employer created detrimental and intolerable working conditions by requiring that all future appointments be scheduled so as to not conflict with her work schedule. While this may have been necessary to fulfill the mission of the employer, it gave the claimant good cause attributable to the employer to resign. Benefits are allowed.

#### DECISION:

The unemployment insurance decision dated February 10, 2006, reference 01, is reversed. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible.

cs/tjc