

**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**

**VICTORIA L ERNST-MERRILL
2610 PROSPECT
SIOUX CITY IA 51104**

**SALEM MANAGEMENT INC
RUDY SALEM EMPLOYMENT AGENCY
PO BOX 3124
SIOUX CITY IA 51102**

**Appeal Number: 05O-UI-04017-BT
OC: 03/07/05 R: 01
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:

Victoria Ernst-Merrill (claimant) filed a timely appeal to an unemployment insurance decision dated January 18, 2005, reference 05, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Rudy Salem Employment Agency (employer) without good cause attributable to the employer. Administrative Law Judge Beth Scheetz conducted an initial hearing on this matter in appeal 05A-UI-01176-S2T in which benefits were denied. The claimant appealed the decision. The Employment Appeal Board remanded for a new hearing in an order dated April 14, 2005 because the tape could not be transcribed. After hearing notices were mailed to the parties' last-known addresses of record, a

telephone hearing was held on May 10, 2005. The claimant participated in the hearing. The employer participated through Cyd Hall, Office Manager. Exhibits D-1 and D-2 were admitted into evidence.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time secretary from August 2, 2003 through December 7, 2004. Continued work was available. She left employment with Rudy Salem Employment Agency to accept other employment at St. Luke's Hospital.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment to accept employment elsewhere.

Iowa Code section 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment and did perform services for the subsequent employer. Accordingly, benefits are allowed and the employer's account shall not be charged.

DECISION:

The unemployment insurance decision dated January 18, 2005, reference 05, is reversed. The claimant voluntarily left her employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The employer's account shall not be charged.

sdb/pjs