

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

BOBBIE J TROTTER
7059 CROWN POINT #207C
OMAHA NE 68104

CON AGRA
COUNCIL BLUFFS
C/O TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 06A-UI-00731-RT
OC: 12-04-05 R: 01
Claimant: Appellant (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 Quitting

STATEMENT OF THE CASE:

The claimant, Bobbie J. Trotter, filed a timely appeal from an unemployment insurance decision dated January 12, 2006, reference 01, denying unemployment insurance benefits to her. After due notice was issued, a telephone hearing was held on February 16, 2006, with the claimant participating. Julie Millard, Human Resources Generalist, participated in the hearing for the employer, Con Agra, Council Bluffs. Neil Driscoll, Supervisor, was available to testify for the employer but not called because his testimony would have been repetitive and unnecessary. The administrative law judge takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant. This appeal was consolidated with appeal number 06A-UI-00732-RT for the purposes of the hearing with the consent of the parties. An

initial hearing was scheduled in this matter for February 6, 2006 at 11:00 a.m. and rescheduled at the claimant's request.

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: The claimant was employed by the employer as a full time production laborer from April 11, 2005 until she voluntarily quit on April 27, 2005. On that day the claimant came to work but left work before her shift was over. The claimant quit because the work was too fast and she could not keep up with the line. The claimant went to personnel and expressed concerns telling personnel that she was having a difficult time doing her job. The claimant asked to be moved to a different line. The personnel office told the claimant to not give up, because she had just started work, and to be patient. The claimant went back to the floor and was assigned another job and as she was doing what she was told to do some of the co-workers laughed and the claimant testified that this made her feel humiliated. The claimant then went back to the personnel office and informed them that she was quitting. The claimant's shift was not over at that time. Other than her first conversation in personnel, the claimant never expressed any concerns to the employer about her working conditions. The claimant was not facing a lay-off. The only earnings received by the claimant since her separation from the employer herein, Con Agra, Council Bluffs, was \$1,263.55 in the fourth quarter of 2005 from Tyson Refrigerated Processed. The claimant's weekly benefit amount is \$324.00 and the amount earned from Tyson Refrigerated Processed is not ten times the claimant's weekly benefit amount or \$3,240.00 so the claimant has not requalified to receive unemployment insurance benefits since separating from the employer herein on or about April 27, 2005. The claimant filed a claim for unemployment insurance benefits effective December 4, 2005. Thereafter the claimant filed six weekly claims and reported no earnings until benefit week ending January 14, 2006.

REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant's separation from employment was a disqualifying event. It was.

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 24.25(21), (27), (33) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "j," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

- (21) The claimant left because of dissatisfaction with the work environment.
- (27) The claimant left rather than perform the assigned work as instructed.
- (33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

The parties agree, and the administrative law judge concludes, that the claimant voluntarily left her employment. The claimant did not remember the specific day that she left her employment, but the employer's witness, Julie Millard, Human Resources Generalist, credibly testified that the claimant left her employment on April 27, 2005. Accordingly, the administrative law judge concludes that the claimant left her employment voluntarily on April 27, 2005. The issue then becomes whether the claimant left her employment without good cause attributable to the employer. The administrative law judge concludes that the claimant has the burden to prove that she has left her employment with the employer herein with good cause attributable to the employer. See Iowa Code section 96.6-2. The administrative law judge concludes that the claimant has failed to meet her burden of proof to demonstrate by a preponderance of the evidence that she left her employment with the employer herein with good cause attributable to the employer. The claimant first testified that she left her employment because the work was very fast at the employer and she could not keep up with the line. The claimant testified that she went to personnel and expressed some concerns and personnel told the claimant that she should not give up because she had just started work. The claimant asked if she could be assigned another job. The claimant went back to work and was assigned another job. The claimant then testified that she was doing what she was instructed but felt humiliated because some of her co-workers were laughing at what she believed was her, and therefore she went back to personnel and quit. The claimant expressed no concerns about any working conditions at the employer except the first time she went to personnel on April 27, 2005, when she complained about the speed of the work and that she could not keep with the line and that she was having a difficult time doing her job. Leaving work voluntarily because of a dissatisfaction with the work environment or leaving rather than perform the assigned work as instructed or leaving because the claimant felt her job performance was not to the satisfaction of the employer when the employer had not requested the claimant to leave are not good cause attributable to the employer. There is no evidence that the employer had requested the claimant to leave or that the employer felt the claimant was not doing a good job. Concerning the humiliation that the claimant alleges, the administrative law judge concludes that the claimant has not demonstrated by a preponderance of the evidence that this made her working conditions unsafe, unlawful, intolerable, or detrimental, or that she was subjected to a substantial change in her contract of hire. The bottom line is that the claimant did not like her work and therefore quit and this is not good cause attributable to the employer. The claimant also did not express sufficient concerns to the employer with an opportunity for the employer to address those concerns before she quit. Accordingly, the administrative law judge concludes that the claimant left her employment voluntarily on April 27, 2005, without good cause attributable to the employer and, as a consequence, she is disqualified to receive unemployment insurance benefits. Unemployment insurance benefits are denied to the claimant until, or unless, she requalifies for such benefits.

Iowa Workforce Development records do not indicate that the claimant has requalified to receive unemployment insurance benefits following her separation from the employer herein. Iowa Workforce Development records show only \$1,263.55 in earnings from other employers after the claimant's separation from the employer herein, Con Agra, Council Bluffs. This

amount does not exceed ten times the claimant's weekly benefit amount of \$324.00 or \$3,240.00 and therefore the claimant has not requalified to receive unemployment insurance benefits at least during the time that she had been filing for such benefits.

DECISION:

The representative's decision of January 12, 2006, reference 01, is affirmed. The claimant, Bobbie J. Trotter, is not entitled to receive unemployment insurance benefits, until, or unless, she requalifies for such benefits, because she left her employment voluntarily without good cause attributable to the employer.

kkf/kjw