

**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**

**Appeal Number: 05A-UI-02127-D
OC: 01/30/05 R: 02
Claimant: Appellant (2)**

**LINDA J PAGE
103 – 2ND ST
WEST DES MOINES IA 50265**

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.

**DR. SALLY PINNICK P.C.
1000 – 73RD ST STE 8
DES MOINES IA 50311**

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.

**JAMES HANSEN
ATTORNEY AT LAW
STE 5
2313 ROCKLYN DR
URBANDALE IA 50322**

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Linda J. Page (claimant) appealed a representative's February 25, 2005 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Dr. Sally Pinnick P.C. (employer). After hearing notices were mailed to the parties' last-known addresses of record, an in-person hearing was held on March 17, 2005. The claimant participated in the hearing and was represented James Hansen, attorney at law. The employer responded to the hearing notice by contacting the Appeals Section on March 16, 2005 and leaving a message that it did not intend on participating in the hearing. Therefore, the employer did not participate in the hearing. 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 for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on August 4, 2004. She worked full time as a medical receptionist in the employer's family practice. Her last day of work was January 28, 2005.

Other employees had previously informed the claimant that there were times when paychecks had been returned for insufficient funds or that paychecks had been delayed. The claimant had previously never personally had a paycheck returned or had to wait for her paycheck, but there had been occasions that even though she was given her bi-weekly paycheck on time, the employer had asked her to wait a few days to cash the check. At the end of the day on Friday, January 28, the employer informed the claimant and another employee that they would not get their bi-weekly paycheck the following Friday, February 4, because two other employees had not gotten their paychecks the prior Friday, January 21, and so they really needed to be paid. The claimant was upset as she went home that day.

On Monday, January 31, 2005, the claimant was still upset and called in to the employer in the morning to report she would not be in that day. She called again later in the day and spoke to the employer's office manager. She told the office manager that she was not going to return to employment if she could not be assured of being paid as scheduled on Friday. The office manager did not make any assurances to the claimant that she would in fact be paid. The claimant then asked to speak to Dr. Pinnick, and repeated her concern about not being paid. The doctor also could provide no assurance to the claimant that she would be paid as scheduled on February 4, 2005. Therefore, the claimant quit her employment.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit for good cause attributable to the employer.

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 24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

- (4) The claimant left due to intolerable or detrimental working conditions.

The claimant reasonably concluded that the employer was not going to pay her wages when due. Deshler Broom Factory v. Kinney, 2 N.W.2d 332 (Nebraska 1942). The claimant has demonstrated that a reasonable person would find the employer's work environment detrimental

or intolerable. O'Brien v. EAB, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). Further, the claimant gave the employer notice that she would quit if she was not given assurance of being paid as scheduled in order to give the employer an opportunity to address or resolve her complaint. Swanson v. Employment Appeal Board, 554 N.W.2d 294 (Iowa 1996), Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). The claimant's quit was therefore for good cause attributable to the employer, and benefits are allowed, if the claimant is otherwise eligible.

DECISION:

The representative's February 25, 2005 decision (reference 01) is reversed. The claimant voluntarily quit for good cause attributable to the employer. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

ld/pjs