

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

DANA KLING
Claimant

APPEAL NO: 10A-UI-16093-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 10/03/10
Claimant: Appellant (1)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Dana Kling (claimant) appealed an unemployment insurance decision dated November 12, 2010, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Hy-Vee, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 12, 2011. The claimant participated in the hearing. The employer participated through Dave Durivage, Joe Connell, Kyle Leeds, Roger Ratcliff and Employer Representative John Fiorelli. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits?

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 part-time cook from January 17, 2004 through October 1, 2010. She voluntarily quit because she did not get along with her brother-in-law, Scott Kling, who was temporarily working on her shift while other employees were on vacation. The claimant said on September 17, 2010 he hollered and cussed at her, threw a book at her, and started stabbing something, although she could not see what he was stabbing. She gave her two-week notice and worked through October 1, 2010. The claimant subsequently told the kitchen manager she did not want to quit her job.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

Iowa Code § 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.

The claimant quit her employment because she sometimes had to work with her brother-in-law, with whom she does not get along. They worked different shifts but on September 17, 2010 the claimant and her brother-in-law were working the same shift. When her brother-in-law threw a book at her, she did not immediately contact anyone but waited and called the manager at a later time. If the situation were as serious as the claimant portrays, it seems unusual that she did not immediately summon help so the only conclusion that can be made is that it was not as serious as it sounds. Since her brother-in-law was only working with her on a temporary basis, it seems it could have been easily worked out as opposed to the claimant taking the serious step of quitting her employment.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated November 12, 2010, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css