

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KELLY SCHEIDLER
Claimant

DOLGENCORP LLC
Employer

APPEAL 21A-UI-13836-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/28/21
Claimant: Appellant (2)

Iowa Code §96.5(2)a-Discharge/Misconduct
Iowa Code §96.5(1)- Voluntary Quit

STATEMENT OF THE CASE:

On June 11, 2021, the claimant/appellant filed an appeal from the June 1, 2021, (reference 01) unemployment insurance decision that disallowed benefits based on claimant voluntarily quitting because of dissatisfaction with work conditions. The parties were properly notified about the hearing. A telephone hearing was held on August 13, 2021. Claimant participated at the hearing. Employer did not register a number to participate in the hearing prior to the hearing and therefore did not participate in the hearing. Claimant called as a witness Peggy Garrison. Claimant's Exhibit A was admitted into the record.

ISSUE:

Was the separation a voluntary quit with good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on December 27, 2017. Claimant last worked as a full-time Store Manager. Claimant was hired as a salaried employee. Claimant was hired to work 45-48 hours a week and from time to time would have to cover shifts for employees if they called in for shifts. Claimant was hired to work six days a week with one day off each week.

Eventually the store became short staffed and they could not find employees to cover shifts. This lead to claimant consistently working 70-80 hours a week. For the two months preceding claimant's separation, claimant worked every day without a day off. The three weeks prior to claimant's separation she worked 90 hours per week. The three days immediately prior to claimant's separation, claimant worked the opening and the closing shift from 7:30 a.m. until 10:30 p.m. Claimant asked her supervisor April Lewis for help in obtaining staff to cover shifts but Ms. Lewis failed to help find solutions to the labor shortage. The lack of help began taking a mental and physical toll on the claimant.

Finally, on the morning of March 26, 2021, claimant was exhausted and asked for some time off. Ms. Lewis refused the claimant's request. Claimant told Ms. Lewis if she did not have time off she was quitting. Ms. Lewis refused to give Ms. Lewis time off. Claimant informed Ms. Lewis she was quitting and left. Claimant did not return to work. Claimant was separated from employment on March 26, 2021, when she voluntarily quit.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit the employment with good cause attributable to the employer.

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.

Iowa Admin. Code r. 871-24.26(1) 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:

- (1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The claimant established that when she accepted the position she was hired to work 45-48 hours per week and she was guaranteed one day off each week. Claimant was aware that she would have to cover shifts from time to time. However, working 90 hours a week and working months without a day off was not part of the contract of hire. The continuous long hours was starting to impact claimant mentally and physically. The claimant has established the separation was with good cause attributable to the employer. Benefits are allowed.

DECISION:

The June 1, 2021, (reference 01) unemployment insurance decision is reversed. The claimant voluntarily quit the employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible. Any benefits withheld on this basis shall be paid.

A handwritten signature in black ink that reads "Carly Smith". The signature is written in a cursive, flowing style.

Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

August 18, 2021
Decision Dated and Mailed

cs/scn