

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DOMINIQUE SMITH**  
Claimant

**APPEAL NO: 11A-UI-16437-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FAMILY DOLLAR STORES OF IOWA INC**  
Employer

**OC: 11/13/11  
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's December 14, 2011 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because the claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant participated in the hearing. Chad Tolsma, the store manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant is not qualified to receive benefits.

**ISSUE:**

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits, or did the employer discharge her for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in April 2011. The claimant worked as an assistant store manager.

In early October the claimant learned she was pregnant. Her doctor gave her a work restriction that she could not lift more than 35 pounds and needed frequent restroom breaks. After the claimant gave the work restriction to Tolsma, he reduced her hours to accommodate her work restrictions. Tolsma noticed the claimant was not focusing at work and thought it was a combination of personal issues and her pregnancy.

On November 5, 2011, Tolsma told the claimant that he was demoting her to a service assistant because she was not at that time performing her job as an assistant manager satisfactorily. Tolsma hoped the service assistant position would be less stressful so the claimant could improve her job performance. Tolsma directed the claimant to talk to corporate office personnel about FMLA issues.

On November 8, the claimant learned she was not eligible to receive any FMLA even though she was expecting her child in March. After learning she was not eligible to receive FMLA, the

claimant told Tolsma she was quitting because she was not eligible for FMLA. The claimant worked to November 12 or the effective date of her resignation.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(1), (2)a.

The claimant asserted the employer discharged her because she was not scheduled to work after November 12. The employer's testimony that the claimant told Tolsma she was going to quit because she was not eligible for FMLA is more credible than the claimant's testimony. The claimant's testimony is deemed less credible in part because she changed her testimony. If she could talk to Tolsma on November 8, it is difficult to understand why the claimant would not talk to him after November 12 to ask why she was not scheduled if she had not already told him she quit. The claimant may have been frustrated after learning she was not eligible for FMLA because she had not worked long enough for the employer. But quitting for his reason does not qualify her to receive benefits. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6(2).

**DECISION:**

The representative's December 14, 2011 determination (reference 01) is affirmed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of December 14, 2011. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs