

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LINDA L KANSELAAR**  
Claimant

**APPEAL NO. 09A-UI-11276-VS**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PELLA CORPORATION**  
Employer

**Original Claim: 06/28/09  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed an appeal from a representative's decision dated July 30, 2009, reference 01, which held the claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on September 29, 2009, in Des Moines, Iowa. The claimant participated. The employer participated by Tiffany Weaver, human resources business partner; and Ruth DeWild, order entry supervisor. The record consists of the testimony of Linda Kanselaar, the testimony of Tiffany Weaver, the testimony of Ruth DeWild, Employer's Exhibits 1 through 9; and Claimant's Exhibits A through XX.

**ISSUE:**

Whether the claimant voluntarily left for good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The claimant was hired by the employer on July 21, 2008, and was assigned to the order entry department on the "wood side." At the time the claimant was hired, the employer was making changes in the ordering process and, in particular, was implementing a program called PQM. The claimant thought she would be getting 6 to 8 weeks of training, but this did not happen. In addition, the claimant missed four weeks of work due to illness.

In order to assess performance, this order entry system generated error reports. The claimant felt that these error reports were not accurate measurements of how well an employee was actually doing and that no one could meet the criteria demanded. She examined her error reports and felt that mistakes were being made on her reports. She attempted to speak with her supervisors about her concerns over the error reports and began documenting the variations she detected.

On June 17, 2009, the claimant found an error report on her desk. (Exhibit QQ) This error report was for the week of June 1, 2009, through June 7, 2009. There was highlighting on the

report. The claimant's accuracy rate was 96.68% and her goal was 99.5%. Her cumulative 2009 dollar error was \$27,582.86. The report also contained these statements:

96.99-96.00 Accuracy **and** \$15,000 = 2nd Letter valid for 12 months  
95.99-95.00 Accuracy **and** \$16,000 = 3rd Letter termination

Portions of the above statements were highlighted in yellow, including \$16,000 = 3rd.

When the claimant got this report, she felt her termination was imminent. She sent an email to her supervisor, Ruth DeWild, at 10:31 a.m. asking her when she was going to be terminated. Ruth DeWild replied in an email at 11:38 a.m. that the claimant was not going to be terminated. However, the claimant had left for lunch and was gone for the rest of the day. She did not see the email from Ruth DeWild.

The claimant decided to resign her position and gave a letter to her employer on June 23, 2009. Her resignation was effective on June 24, 2009. The claimant believed that she would be terminated and that she could never perform in accordance with the employer's criteria. She felt it would be better to resign as opposed to being terminated.

#### **REASONING AND CONCLUSIONS OF LAW:**

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(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 "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence in this case established that it was the claimant who initiated the separation of employment. The main reason that she resigned her position was her fear that she would be terminated for the number of errors made. When she saw the error report for the week of June 1 through June 7 and the word "termination" was highlighted, she concluded that termination was imminent. She sent an email to her supervisor on when the date of termination would occur, and left before she got an email back from her supervisor saying that she was not being terminated. The claimant then decided that the system for measuring employee productivity was set up in such a way that she could never measure up and that she was fighting a losing battle. Rather than be terminated, the claimant felt it was better for her to quit.

It is indeed unfortunate that the claimant was given an error report with yellow highlighting that included the word "termination." She was understandably hurt and worried about this report, particularly since the word "termination" was highlighted. However, the claimant decided to leave before making the further inquiries that might have reassured her on her status. She did not wait for an answer to her email on termination. She was not being terminated and work was available for her when she resigned.

A worker who quits his or her job voluntarily is not entitled to receive unemployment insurance benefits unless there is good cause attributable to the employer. Iowa law further states that if a claimant leaves because such claimant feels that the job performance was not to satisfaction of the employer, good cause is not attributable to the employer if the employer had not requested the claimant to leave and continued work was available. The employer had not requested the claimant to leave and continued work was available. Benefits are denied.

**DECISION:**

The representative's decision dated July 30, 2009, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/kjw