

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JANET C RUSSELL**  
Claimant

**APPEAL NO. 09A-UI-09441-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HY-VEE INC**  
Employer

**OC: 05/31/09**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated June 25, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on July 17, 2009. Claimant participated. Employer participated by Tina Witthoft, manager of store operations, and George Yang, Chinese department manager. Tim Spier served as the employer's representative. The record consists of the testimony of Janet Russell; the testimony of Tina Witthoft; the testimony of George Yang; and Employer's Exhibits One.

**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 a part-time employee at the Hy-Vee store in Mount Pleasant. She first started working on September 19, 2006. In January 2007, there was an opening in the Chinese department and the claimant transferred there. There were several different managers while the claimant worked in the Chinese department. Her fourth manager was George Yang. The claimant had never been guaranteed a certain number of hours as a part-time employee but she did want to work more hours than she did. She averaged between 13- 20 hours per week. Mr. Yang explained to her that he only had a certain number of hours per week that he could schedule and that these hours needed to be spread among several part time employees as evenly as possible.

On March 13, 2009, the claimant was working and had to use the restroom more than normal because she was taking a certain medication. Mr. Yang noticed this and after she had frequented the restroom a few times, he asked her if she had diarrhea. Since she was serving customers, he felt he needed to know this for health reasons. The claimant was offended at this

remark and submitted her two-week notice to Tina Witthoff, the manager of store operations. The note was handwritten and said that she did not want to be scheduled in Chinese any longer. Her last day of work would be April 2, 2009.

The employer accepted the claimant's resignation and hired a replacement employee. The claimant then asked to rescind her resignation. As the employer had hired another employee and there were no other openings in the store, the claimant's resignation took effect on April 5, 2009.

## **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(22) 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:

(22) The claimant left because of a personality conflict with the supervisor.

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 the claimant intended to sever the employment relationship by giving her employer two weeks notice that she intended to quit her job. The claimant's reasons for quitting were that she did not feel she had enough hours and a personality conflict between her and her supervisor. Although the claimant may have had good personal reasons for resigning her job, these reasons do not constitute good cause attributable to the employer. The claimant did attempt to rescind her resignation, but the resignation had been accepted by the employer and a replacement had been hired. Accordingly, benefits are denied.

**DECISION:**

The decision of the representative dated June 25, 2009, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

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