

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DONA J VIERECK
Claimant

DINA G CORPORATION
Employer

APPEAL NO. 19A-UI-09213-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/27/19
Claimant: Appellant (1)

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated November 14, 2019, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on December 17, 2019. Claimant participated. Employer participated by Dina Corbett. Claimant's Exhibit 1 was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on October 28, 2019. Claimant quit her dual roles of deli worker and stocker when she was denied her request to stop working in the deli section and work simply as a stocker.

Claimant was hired by employer to work split duties as a deli worker and a stocker, and was given additional pay for working the dual roles. When claimant came into work on many weekends, she would find that the fryer hadn't been cleaned. As a result, claimant would state that the fryer would smoke when it was turned on when dirty and almost catch fire. Claimant stated that there had never been a fire and did not provide any proof of health warnings placed on the deli area from inspectors.

Claimant also complained of harassment by the nighttime deli worker and the manager. Regarding the nighttime worker, claimant indicated that the woman would intentionally not do her job in cleaning the fryer to leave it to the claimant. Additionally, claimant stated that one of the managers often did crude things to her, by watching porn on his phone, and on an occasion months before her quit, touching her bottom.

Claimant went to management to complain about the deli procedures. Employer devised a new plan and laid it out at an employee meeting a week before claimant quit. Claimant then met with employer a couple of days later asking that she be removed entirely from her deli work.

Employer denied this move as claimant was being paid extra for her doing split work. Claimant then quit.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because claimant was unhappy with being unable to transfer to working exclusively as a stocker.

Ordinarily "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code Section 96.2. *O'Brien v. EAB* 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the test of good faith." *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "Common sense and prudence must be exercised in evaluating all of the circumstances that led to an employee's quit in order to attribute the cause for the termination." *Id.* Looking at the specifics of this matter, claimant expressed three issues: the cleanliness of the deli; the actions of the manager; and the denial of her request to solely work as a stocker.

Regarding the cleanliness of the deli, employer was implementing plans to address each of claimant's concerns after claimant raised the concerns to management. Claimant did not give time for the implementation of these new rules to take effect prior to her quit. To the extent that claimant raised fire and safety concern, no proof has been shown to back up claimant's claims, and there were no safety or health violations.

Regarding the manager's alleged inappropriate actions, claimant stated that she never went higher up to management to complain of the actions. Additionally, complaints made occurred months before claimant chose to quit. As employer was not given the opportunity to remedy supposed actions, claimant's quit is not attributable to employer when the actions were not alleged to be pervasive.

Lastly, regarding employer's denial of claimant's request to switch jobs, claimant was hired for a specific split position at a higher rate of pay than a stocker. Claimant gave no indication that she offered to accept a reduction of pay to a stocker's rate of pay, nor were there discussions as to hours to be worked.

DECISION:

The decision of the representative dated November 14, 2019, 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.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn