

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER L CLASEN
Claimant

APPEAL NO: 10A-UI-08998-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EMPLOYMENT SERVICES
Employer

OC: 05/23/10
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Jennifer Clasen (claimant) appealed a representative's June 16, 2010 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Heartland Employment Services (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for August 10, 2010. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on April 7, 2006, as a full-time dietician. In December 2009, law enforcement protected the inhabitants of the building based on a problem between an employee and her husband. On March 18, 2010, the claimant and others expressed concerns about the workplace to the employer. The claimant was not sure what the employer did with the information. A co-worker took the claimant's water and soda from the claimant's refrigerator and desk drawer. There were no problems after the claimant secured her possessions with a lock.

On May 19, 2010, the employer asked employees to work extra hours to care for the residents during an inspection. The claimant met with the claimant and asked her if she was going to put in the extra hours. The claimant told the employer she was not sure because she did not have childcare. The claimant thought it was beneath her job title to care for residents in the role of a nursing assistant. The employer told the claimant in an angry tone that she needed to think about whether she wanted to keep working for the employer because the claimant was not acting like a team player. The employer left the meeting. Later the claimant quit without telling the employer the reason for her resignation.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

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 24.26(4) 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:

(4) The claimant left due to intolerable or detrimental working conditions.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The law presumes a claimant has left employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The claimant argues that she quit due to intolerable or detrimental working conditions. The conditions that she believes were intolerable or detrimental are the employer's reprimand of May 19, 2010, law enforcement securing the building in December 2009, the employer's failure to respond to the claimant's concerns on March 18, 2010, and theft of her water and soda.

871 IAC 24.25(21), (22) and (28) provide:

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:

(21) The claimant left because of dissatisfaction with the work environment.

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

(28) The claimant left after being reprimanded.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). When an employee quits work because she is dissatisfied with the work environment, has a personality conflict with her supervisor or after

having been reprimanded, her leaving is without good cause attributable to the employer. The claimant left work because she was dissatisfied with her work environment because of a personality conflict with her former supervisor and she was reprimanded on May 19, 2010.

It is important to note that the claimant did not resign until after she was reprimanded on May 19, 2010. The issues that comprise the claimant's description of an intolerable or detrimental workplace when taken individually are presumed to be without good cause attributable to the employer.

DECISION:

The representative's June 16, 2010 decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css