

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI	
<b>EMMA C JOHNSON</b> Claimant	<b>APPEAL NO. 17A-UI-10977-S1-T</b>
<b>HY-VEE INC</b> Employer	<b>ADMINISTRATIVE LAW JUDGE DECISION</b>
	<b>OC: 10/08/17</b> <b>Claimant: Appellant (1)</b>

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Emma Johnson (claimant) appealed a representative's October 24, 2017, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Hy-Vee (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 14, 2017. The claimant participated personally. The employer was represented by Frankie Patterson, Hearings Representative, and participated by Rich Sherer, Store Director, and Ben Hovey, Assistant Director of Store Operations.

**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 February 25, 2017, as a part-time bakery clerk. She told the employer when she was hired that she was not available to work on Sundays and Thursdays due to religious reasons. From time to time the claimant was scheduled to work on Thursdays. If she mentioned it to the assistant director of store operations, he took care of the shift for her. If she complained to the bakery manager, he told her to find her own replacement. The last Thursday she was scheduled to work was in August 2017.

On September 19, 2017, the claimant told her bakery manager she was quitting because the employer scheduled her to work on September 21, 2017. The store manager called the claimant and explained there was a miscommunication. He asked her to stay and the claimant agreed to continue working for the employer. On September 20, 2017, the claimant called another member of management and quit. She did not want to work for a company that would accidentally schedule her to work on a Thursday. Continued work was available had the claimant not resigned.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow 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, 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.

Iowa Admin. Code r. 871-24.25(21) 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:

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

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 claimant's intention to voluntarily leave work was evidenced by her words and actions. She told the employer she was leaving and quit work. When an employee quits work because she is dissatisfied with the work environment, her leaving is without good cause attributable to the employer. The employer made a mistake by placing her on the schedule for September 21, 2017, but it did not require her to work. The claimant left work because she did not like this sort of work environment. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

#### **DECISION:**

The representative's October 24, 2017, 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.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs