

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JANIE J DRAKER-FALCON
Claimant

APPEAL NO. 07A-UI-04034-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOLGENCORP INC
Employer

OC: 03/18/07 R: 04
Claimant: Respondent (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Dolgencorp, Inc. filed an appeal from a representative's decision dated April 9, 2007, reference 01, which held that no disqualification would be imposed regarding Janie Draker-Falcon's separation from employment. After due notice was issued, a hearing was held by telephone on May 7, 2007. Ms. Draker-Falcon participated personally. The employer participated by Jane Steiert, District Manager.

ISSUE:

At issue in this matter is whether Ms. Draker-Falcon was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Draker-Falcon was employed by Dollar General from February 16 until March 23, 2007 as a full-time store manager. She quit the employment because of harassment from a former employee.

The former employee, Danielle, quit the employment on March 6 after working with Ms. Draker-Falcon for only one day. Danielle came into the store on a daily basis thereafter. On some occasions, she would take merchandise from the shelves and leave it on the floor. Ms. Draker-Falcon reported the conduct to her district manager but no steps were taken to prohibit Danielle from entering the store. The decision to leave the employment was prompted by the fact that Danielle filed a police report accusing Ms. Draker-Falcon of theft. Ms. Draker-Falcon tried to get a transfer to a different store but the employer declined her request. She left a voice message for the employer on March 23 indicating she was leaving because nothing had been done about Danielle's conduct.

REASONING AND CONCLUSIONS OF LAW:

An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Ms. Draker-Falcon left her employment with Dollar General because of harassment from a former employee, conduct that went undeterred by the employer. She notified her district manager of the harassment but no steps were taken to remedy the problem. Ms. Draker-Falcon advised the district manager that Danielle was coming into the store and leaving merchandise on the floor. This conduct resulted in Ms. Draker-Falcon having to clean up after her. Although the employer had no control over Danielle's conduct in filing a false police report, the employer did have the ability to control whether she came to Ms. Draker-Falcon's store.

The employer apparently felt it was Ms. Draker-Falcon's responsibility to take legal steps to prohibit Danielle's conduct. The administrative law judge believes it is the employer's responsibility to take steps to prevent unruly and disruptive customers from continuing to enter its store. Although the employer believed Ms. Draker-Falcon's complaints, no steps were taken to prevent Danielle from continuing to enter the store. Therefore, the employer allowed her to continue to come into the store and create a mess for Ms. Draker-Falcon to take care of. The administrative law judge concludes that the employer's lack of action constituted good cause attributable to the employer for quitting. Accordingly, benefits are allowed.

DECISION:

The representative's decision dated April 9, 2007, reference 01, is hereby affirmed. Ms. Draker-Falcon quit her employment with Dollar General for good cause attributable to the employer. Benefits are allowed, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw