

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMY L ATWOOD
Claimant

APPEAL NO. 11A-UI-09953-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TPI IOWA LLC
Employer

OC: 07/10/11
Claimant: Appellant (2)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Amy Atwood, filed an appeal from a decision dated July 27, 2011, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on August 22, 2011. The claimant participated on her own behalf. The employer, TPI Iowa, did not provide a telephone number where a witness could be contacted and did not participate.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Amy Atwood was employed by TPI Iowa from October 12, 2009 until July 8, 2011 as a full-time team leader. On July 8, 2011, she approached Supervisor Seth Carlin about how to handle a situation with a third-shift team leader, Donnie. Mr. Carlin told her not to worry about it and then asked her if it was true she was planning to quit to go to school. She said it was not.

About two hours later she approached Mr. Carlin again to ask why her job had been posted. He said the company needed someone who was “dedicated” to the company and he did not feel she was if she was intending to go to school. He told her at that time she “might as well quit” and she did.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

The record establishes the claimant did not intend to quit. A voluntary quit requires an intention to quit accompanied by an overt act carrying out that intent. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). The supervisor had posted her job as though she had resigned when she made it clear that was not her intent. He told her she might as well quit. A combination of these two factors would lead any reasonable person to believe they were going to be dismissed or replaced. The employer did not participate to provide any rebuttal testimony to the claimant's assertions. The claimant quit rather than be discharged and there is no evidence of misconduct. Disqualification may not be imposed.

DECISION:

The representative's decision of July 27, 2011, reference 01, is reversed. Amy Atwood is qualified for benefits, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs