

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER R KENNEDY

Claimant

APPEAL NO: 19A-UI-04411-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ACE INTERNATIONAL INC

Employer

OC: 05/05/19

Claimant: Appellant (4)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 22, 2019, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on June 25, 2019. The claimant participated in the hearing. Terry Wolfgram, District Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time general manager for Ace International (Burger King) from December 13, 2012 to May 8, 2019. She voluntarily left her employment after she did not get the raise she expected.

On May 1, 2019, the claimant asked District Manager Terry Wolfgram to let her know if she was going to get a raise. She told him he knew whether he was going to give her a raise and he stated it would not be fair to the claimant to have the discussion without the pertinent paperwork in front of him. On May 2, 2019, Mr. Wolfgram told the claimant she would be getting a raise. She was making \$47,476.00 and he offered her \$48,900.00. The claimant said she needed to make a phone call and called her husband to see if he objected to her giving her two week notice. He said that was fine and she went back and told Mr. Wolfgram she was resigning effective May 16, 2019. She was upset because she wanted her salary raised to \$55,000.00. She told Mr. Wolfgram what she wanted and thought she deserved and he stated that was a 17 percent increase when the employer's guidelines were three to four percent and he had given her three percent. He asked her for a reasonable number but she stuck to \$55,000.00. He stated he would talk to management and get back to her and although he did discuss the situation with management he never went back to the claimant with a counterproposal because he believed she was firm on \$55,000.00.

On May 8, 2019, Mr. Wolfgram was meeting with the claimant's replacement in the dining area of the restaurant. He asked the claimant to meet with them for a few minutes and after they both used the restroom and the claimant grabbed something to drink, the claimant saw the woman who was taking her place and told Mr. Wolfgram she knew who she was and did not need to sit and talk with her. She then said, "If you think I can train her you're crazy," and Mr. Wolfgram responded that he had not asked her to train her replacement. Mr. Wolfgram then asked the claimant if she was going to walk out and the claimant said she was not and if the employer wanted her out it would have to terminate her employment. Mr. Wolfgram asked for her keys and told her she could go and the claimant asked if he was "firing her" and he said yes. The claimant asked for her termination in writing and Mr. Wolfgram printed two personnel change forms. Under reason for separation Mr. Wolfgram initially wrote the claimant used profanity toward him. When she pointed out she did not swear at him he threw that form away and wrote on the second form he was accepting her resignation early. The claimant was upset and crying and Mr. Wolfgram asked for her keys again. She stated she was not going to make a scene but wanted to get her personal belongings and he said okay. The claimant retrieved her belongings and handed her keys to Mr. Wolfgram and left the building.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

Iowa Code § 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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

The claimant submitted her resignation notice in response to being denied the raise she felt she was entitled to receive. The claimant worked extremely hard without complaint over 55 hours per week and the employer did not pay promised bonuses when due. She went above and beyond the call of duty and felt the employer's offered raise of three percent or \$1,524.00 per year was an insult to her dedication and hard work. She asked for a raise of 17 percent or \$7,624.00 per year. The parties were far apart on the amount of the raise and probably neither figure was fair. Both the claimant and Mr. Wolfgram made good points regarding the raise but that said the administrative law judge cannot make a determination on what an employee's raise should be in an unemployment hearing. The employer offered the raise and the claimant put forth a counter proposal and the negotiation stopped at that point as the claimant gave her two week notice.

The claimant voluntarily left her employment because she was dissatisfied with the raise offered. She has not demonstrated that her leaving was attributable to unlawful, detrimental, or intolerable working conditions. Therefore, benefits must be denied.

The employer terminated the claimant before her two week notice period expired for insubordination. The claimant was upset about her separation and refused to meet with Mr. Wolfram and her replacement. The claimant did not have any history of insubordination and this was an isolated incident of misconduct under unusual circumstances. Therefore, the claimant is eligible for benefits the two weeks ending May 18, 2019.

DECISION:

The May 22, 2019, reference 01, decision is modified in favor of the claimant. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant is eligible for benefits for the two week period ending May 18, 2019, covering her two-week notice period.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn