

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CYNTHIA L FINLEY
Claimant

TARGET CORPORATION
Employer

APPEAL 17A-UI-01151-H2T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/25/16
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 18, 2017, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 22, 2017. Claimant participated along with her two witnesses Holly Draur and Carrie Abbas. Employer participated through Michelle Beacom, Executive Team-Lead for Logistics.

ISSUE:

Did the claimant voluntarily quit her employment without good-cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part-time as sales associate/team member beginning on November 22, 2015 through November 24, 2016 when she voluntarily quit.

The claimant was working on Thanksgiving evening which was understandably a very busy shopping day. She thought the store was understaffed for the amount of customers who were shopping. Claimant thought that she should have been given a ‘partner’ to work with her during this very busy shopping night. She also thought that every store employee should have a walkie-talkie and a “my device” scanner which would allow them to find out the availability of items for customers. She was never promised or guaranteed that she would always have a walkie-talkie or a “my device” to use while working. The claimant also disagreed with the manager’s decision to have her and other employees pulled off the floor to cashier when the check-out lines were long.

The claimant suffered from anxiety attacks and heart palpitations. She had sought treatment from her physician who gave her anti-anxiety medications and anti-depressants. No doctor ever advised the claimant to quit her job. Unfortunately during this time period the claimant was also battling cancer and had undergone extensive chemo-therapy treatment. The chemo-therapy weakened her immune system and left her exhausted.

The claimant also did not like the way her team lead Jade spoke to her. The claimant was a slow worker and Jade would ask her often how long she was going to take to finish tasks. Jade was allowed to watch the claimant work. The claimant never went to any manager, human resources person or the company hotline to complain about Jade. The claimant had no interaction with Jade on her last day of employment.

The claimant was easily flustered and anxious, particularly when she had to work with Jade. She simply thought she was being assigned too much work to complete. The claimant had never been told that she was in danger of losing her job because she was working too slowly.

Ms. Draur testified that she saw Jade yell at the claimant in the front of the store by the cashier lines. Ms. Draur, a supervisor at the time, did not report the event to human resources or upper management. She took no action at all, even though she testified she thought Jade's actions were inappropriate.

The claimant felt she could not go to the woman in charge of human resources because she was afraid of her. The claimant had asked her for instructions on which tasks on the floor to complete first. When she was given those instructions, she was insulted because they were so explicit. The claimant had other avenues she could have chosen to go through to complain but she simply chose not to return to work after leaving early during her shift on Thanksgiving.

The claimant was a no-call/no-show for work on November 26, 29, 30 and December 1 and 2. She had been given a copy of the handbook which put her on notice that if she were a three day no-call/no-show from work she would be considered a voluntary quit.

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:

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.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993).

“Good cause” for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (Florida App. 1973).

The claimant did not get along with Jade. She never complained about Jade or sought assistance from upper management. A supervisor is allowed to watch an employee work and allowed to question an employee and provide instruction and direction. The claimant simply has not established that Jade created an intolerable work environment for her. The claimant believed that the employer was assigning her and others too much work. The claimant believed that the employer should increase staffing in part so that she and other employees would be valued. This was especially true on Thanksgiving which is well-known as a very busy shopping day. The claimant had not been told she was working too slowly or that she was in danger of losing her job for working too slowly. While the claimant may have felt she was being expected to work too hard or too quickly, she has not established that the work environment is objectively intolerable to the reasonable person. Instead, claimant established that the work environment is intolerable to her. Therefore, claimant failed to establish she resigned for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The January 18, 2017, (reference 01) decision is affirmed. 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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs