

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RANDI R SHAFFER
Claimant

APPEAL NO: 13A-UI-07115-DT

**ADMINISTRATIVE LAW JUDGE
AMENDED DECISION**

HY-VEE INC
Employer

OC: 06/02/13
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Randi R. Shaffer (claimant) appealed a representative's June 12, 2013 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment with Hy-Vee, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was convened on July 22, 2013, and reconvened and concluded on July 23, 2013. The claimant participated in the hearing. Pam Kiel of Corporate Cost Control appeared on the employer's behalf on July 22, and Sabrina Bentler appeared on July 23; they presented testimony from two witnesses, Gayle Graber and Theresa Hayes. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

On July 25, 2013 a decision was mailed to the above-named parties; however, the body of the decision in that case was for another case, not the parties in this case. This amended decision is therefore issued addressing the parties in this case.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

OUTCOME:

Affirmed. Benefits denied.

FINDINGS OF FACT:

The claimant started working for the employer on August 11, 2009. She worked part time as a kitchen clerk in the employer's Fort Madison, Iowa store. Her last day of work was February 27, 2013.

For about the last year of her employment the claimant was working about two or three days per week, between 12 and 18 hours. Additional hours would have been available to her on weekends, but she had expressed a desire to limit her availability to weekdays. The claimant

assumed the employer understood that she would be interested in more full-time hours because the employer had discussed the possibility of a full time position in approximately 2011, but the claimant did not take any action to seek or express interest in more hours with the employer; rather, at about the end of 2012 she informed the employer that she would only be available about two days per week. She tendered her resignation on February 1, with an intended last day of work of March 1, 2013, but also indicated at that time that she was only available on Mondays and Wednesdays. The claimant had decided to quit because she felt she was not getting enough hours and she had therefore decided to do some childcare in her own home.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993); *Wills v. Employment Appeal Board*, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Quitting to become self-employed is not good cause attributable to the employer. 871 IAC 24.25(19). The law presumes a claimant has voluntarily quit with good cause when she quits because of a substantial change in the contract of hire. 871 IAC 24.26(1). However, the claimant has not established that there had been a substantial change in her most recent employment arrangement over at least the past year; it appears that any lack of desired hours was due to the claimant's own restrictions on her availability. The claimant has not satisfied her burden. Benefits are denied.

AMENDED DECISION:

The representative's June 12, 2013 decision (reference 02) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of February 27, 2013, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css