

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRITTANY G MULLIN
Claimant

APPEAL NO. 15A-UI-11331-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

NORDSTROM INC
Employer

OC: 01/18/15
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Brittany Mullin (claimant) appealed a representative's October 5, 2015 (reference 04) decision that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Nordstrom (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for October 27, 2015. The claimant participated personally. The employer participated by Caitlin Murray, District Human Resources Manager.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on October 13, 2014 as a full-time sales person working in the apparel department. The claimant signed for receipt of the employer's Code of Conduct on October 13, 2014. There was no written rule forbidding supervisors from having a relationship with subordinates. The employer told supervisors not to date direct reports.

The claimant had a relationship with her assistant department manager. In May 2015, the claimant took money he gave her to purchase Plan B over her lunch hour. In August 2015, he was transferred to another store. In September 2015, the claimant miscarried his child. In early September 2015, he was promoted. The claimant complained to the store manager about him and his promotion multiple times.

On September 19, 2015, the claimant sent an e-mail to Felicia Buck. She said she was resigning because she did not have a sitter anymore and had a rough week. She needed a mental health break and planned to teach graphic design to children on an Indian reservation. At the appeal hearing the claimant testified that she quit because of her relationship with the assistant department manager.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work 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.

Iowa Admin. Code r. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The law presumes a claimant has left employment with good cause when he quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The claimant argues that she quit due to intolerable or detrimental working conditions. The problem had been resolved by the time the claimant quit work because the assistant department manager left her work place the month before the claimant quit work. It is important to note that the claimant did not form an intention to resign until after the assistant department manager left the claimant's location.

Iowa Admin. Code r. 871-24.25(2), (17), and (21) provide:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(2) The claimant moved to a different locality.

(17) The claimant left because of lack of child care.

(21) The claimant left because of dissatisfaction with the work environment.

The claimant's intention to voluntarily leave work was evidenced by the claimant's actions. She told the employer she was quitting and stopped appearing for work. When an employee quits work because she is dissatisfied with the work environment, does not have child care, or is moving to a new location, her leaving is without good cause attributable to the employer.

The issues that comprise the claimant's description of an intolerable or detrimental workplace when taken individually are presumed to be without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's October 5, 2015 (reference 04) decision is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

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