

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SUSAN L STEINHOFF
Claimant

APPEAL NO. 13A-UI-11279-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PELLA CORPORATION
Employer

OC: 02/03/13
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated September 23, 2013, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on November 1, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Julie Wolf participated in the hearing on behalf of the employer with a witness, Shane McHenry, Jim Bates, and Diane Carpenter.

ISSUES:

Did the claimant file a timely appeal?

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

FINDINGS OF FACT:

The claimant worked full time for the employer from December 16, 1992, to August 29, 2013. On May 29, 2013, she received a class 2 corrective action letter for violating the employer's respectful work environment policy. She was informed that receiving two class 2 actions in a 24-month period would result in immediate termination. The claimant did not believe that the corrective action letter was justified and believed that after she received the corrective action that she was not treated fairly, which created stress for the claimant.

On August 29, 2013, the claimant violated the employer's lock-out, tag-out policy because she was helping another employee. She was called into a meeting with Julie Wolf, human resources manager, and Shane McHenry. They discussed the claimant's violation of the lock-out, tag-out policy. No corrective action letter had been prepared. When the claimant asked if it was a class 2 violation, McHenry said it would typically fall under the class 2 violations, but there were exceptions, which was why they needed to talk to her.

The claimant then announced "I'm done here. I already have a class 2 violation." She said that meant she was fired, and she got up to leave. Wolf replied no and asked the claimant to sit back down to talk. The claimant then headed back to her work area. The claimant returned and told Wolf "I'm done, I quit." When Wolf again asked the claimant to talk, the claimant said no, that she was done, and was quitting.

No one in management informed the claimant that she was discharged. At the point that the claimant told Wolf that she was done and was quitting, the employer had not decided what action to take for her policy violation.

The claimant decided to leave employment because she thought it was a foregone conclusion that she would be fired. She was still upset about the corrective action she received in May 2013.

The claimant filed her appeal by mail on or before October 3, 2013, in Clarinda, Iowa. It was postmarked in Omaha, Nebraska, on October 4, 2013.

REASONING AND CONCLUSIONS OF LAW:

The first issue in this case is whether the claimant filed a timely appeal.

The law states that an unemployment insurance decision is final unless a party appeals the decision within ten days after the decision was mailed to the party's last known address. Iowa Code § 96.6-2. The evidence establishes that the appeal was filed on or before the deadline for appealing on October 4, 2013. The claimant can't be faulted for the mail not being postmarked until it was taken to the Omaha distribution center.

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. I believe the claimant told Wolf that she was done and was quitting. Because the employer had not yet decided what action to take regarding the claimant's employment, the claimant was the person who decided that she would no longer remain in employment. This amounts to a voluntary quit.

The claimant quit because she believed it was a foregone conclusion that she would be fired. This belief was unreasonable because the employer had not made a decision yet. The employer had the ability to exercise discretion in deciding what form of discipline was appropriate, but the claimant preempted that by quitting. She was still upset about the corrective action she received in May 2013, but the evidence fails to establish intolerable working conditions or other good cause for quitting.

DECISION:

The unemployment insurance decision dated September 23, 2013, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs