

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KRISTINA M FRIELING
Claimant

APPEAL NO: 12A-UI-11253-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PILOT TRAVEL CENTERS LLC
Employer

OC: 08/19/12
Claimant: Respondent (2/R)

Iowa Code 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's September 10, 2012 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant quit for reasons that qualify her to receive benefits. The claimant participated in the hearing. Jeff Marsh, the general manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits?

FINDINGS OF FACT:

The claimant started working for the employer in January 2011. She worked as a shift lead on the overnight shift. Marsh supervised her.

In late 2011 or early 2012, the claimant reported to upper management that Marsh was not following the employer's clock-in procedure. The claimant concluded that after she made this report, she worked in a hostile work environment. Although the claimant acknowledged that if she did not get work done, it was Marsh's job to find out why. The claimant thought he was overly critical of her work, but he never gave her any written warnings. She thought Marsh was overly critical of her work because she reported a problem with him.

In June 2012, the claimant stayed five hours longer than she had been scheduled to work. The claimant incorrectly assumed Marsh knew she would have to stay while the auditor was doing the inventory. Marsh, however, assumed the auditor would leave at 4 or 4:30 p.m., which he had done in the past. When Marsh left at 3:30 p.m. to see a family member at a sports event, he did not believe the claimant would have to work after 4:30 p.m. During this time, the employer did not have enough managers so Marsh, the claimant and the co-manager worked long hours. None of them wanted to work extra, unscheduled hours.

In July, after the claimant reported problems with an employee, the employer discharged this employee. The claimant then started receiving threatening phone calls from this employee at

work. She talked to the co-manager, but not Marsh about the harassing phone calls. The claimant was scared to go to work. She did not report the threatening phone calls to local law enforcement officials.

The claimant experienced not only stress at work because she worked overnight, but also personal stress. She recently had a child and the baby's sleeping patterns did not coincide with the claimant's. In addition to being sleep deprived, the claimant heard from co-workers that the employer was going to terminate her. When the claimant talked to Marsh about this, he told her this was not true and she needed to check her sources. While a Kristina was going to be terminated, it was not the claimant, but a deli worker. The claimant did not trust Marsh and instead believed what co-workers told her instead of him.

The last straw incident occurred on August 13, when the inventory auditor told the claimant she should not have done an inventory the co-manager had been assigned to do on Friday, August 10. Instead of completing the inventory on Friday or Saturday, the co-manager put this job on the claimant's to do list when she reported to work on Sunday, August 12. Since the claimant did what her assigned task list stated, she completed the inventory.

On August 13, the claimant was stressed and upset about all the above issues. She talked to Marsh and quit effective immediately. While she told him the stress of the job was too much for her to handle any longer, she also mentioned another job. Marsh understood she quit because she had another job, which was not true.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits without good cause attributable to the employer. Iowa Code § 96.5(1). When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6(2).

The law presumes a claimant quits with good cause when she leaves because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The claimant's working conditions were not detrimental. The normal stress of her job as a shift lead, a co-manager's failure to do work assigned to him and then passing it off on to the claimant, the harassing phone calls the claimant received from a former employee that Marsh knew nothing about and incorrectly assuming Marsh was out to get her for reporting an issue with him to management and the personal stresses the claimant had to handle all contributed to the claimant feeling overwhelmed and deciding she could no longer handle all the stress in her life. Since the employer only had three managers, the claimant had problem balancing her overnight shift with her family or personal life. One of the claimant's primary problems was that she did not trust the manager. She should have reported problems and her concerns to him, but did not.

While the claimant established compelling reasons for quitting, she did not establish she quit for reasons that qualify her to receive benefits. As of August 19, 2012, she is not qualified to receive benefits.

The issues of overpayment and whether she is eligible for a waiver of any overpayment of benefits she may have received since August 19, 2012, will be remanded to the Claims Section to determine.

DECISION:

The representative's September 10, 2012 determination (reference 01) is reversed. The claimant voluntarily quit her employment, but she quit for reasons that do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of August 19, 2012. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The issues of overpayment and whether the claimant is eligible for a waiver of any overpayment is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs