

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICKY KNUTSON

Claimant

APPEAL NO: 10A-UI-08967-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

LOWE'S HOME CENTERS INC

Employer

OC: 05-16-10

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 15, 2010, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on August 10, 2010. The claimant participated in the hearing. Erica Vickery, Human Resources Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time commercial sales loader for Lowe's Home Centers from April 21, 2008 to May 12, 2010. Two to three weeks prior to his termination the claimant told the store manager that the commercial sales department was a "cluster fuck" and could immediately tell he said the wrong thing by the store manager's reaction so he apologized and the store manager explained they were short one employee that day and he would send someone to help the claimant unload semis. The claimant responded that he might send someone to help but they would not stick around and the store manager's plan would not work because he would be doing the job by himself anyway. The claimant went to Human Resources Manager Erica Vickery approximately two weeks prior to May 12, 2010, and reluctantly reported that the zone manager was calling him names such as "cheap whore" and "moron" and made fun of him for the way he parked his truck. Ms. Vickery discussed the situation with the store manager but the zone manager denied calling the claimant any names. The store manager told the zone manager he needed to be professional 100 percent of the time and needed to treat associates as he would like to be treated. During the following two weeks the claimant noticed that the store manager was in the area of his department more often. On May 12, 2010, the claimant was unloading a semi with another associate when he was instructed to go up to the front of the department where his zone manager told him to stay. The area was about 12 feet by 12 feet between the cashier's station and the commercial sales department. The claimant asked why he had to stand there and for how long but did not receive an answer. The claimant was upset

and frustrated. He waited there for three and one-half hours for the department manager to come in and when he did the claimant spoke to him and he went and talked to the zone manager. They both returned to the area where the claimant was standing and he was told he needed to continue to stay in that area to help customers although he never was required to do so in the past. When the situation was not resolved to the claimant's satisfaction he took off his vest and told them he was quitting his job. He went to look for Ms. Vickery and the store manager but could not find either of them so he left. The claimant believes the zone manager made him stand at the front of the department in retaliation for the claimant going to Ms. Vickery about the name calling.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

Iowa Code section 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. "Good cause" for leaving 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). While it was inappropriate and unprofessional for the zone manager to call the claimant names it is not as if the claimant did not use the "f-word" when speaking to the store manager about the condition of his department two to three weeks earlier. As a result it appears the claimant is capable of directing inappropriate language toward others but becomes upset if is directed toward him. The claimant did have the right to report the zone manager to human resources and even though the zone manager denied calling the claimant names the store manager did tell him that he needed to be professional 100 percent of the time and needed to treat associates as he would want to be treated. Although the claimant believes the zone manager retaliated against him for going to management about the name calling by making him stand at the front of the department so he could assist customers, and it is possible he is correct, the fact that he quit the first time it happened makes it impossible to determine if that would turn into a pattern of retaliation and asking the claimant to stand at the front of his department to wait on customers is not enough, by itself, to find that the zone manager was retaliating against him. Consequently, the administrative law judge must conclude the claimant has not met his burden of proving his leaving was for good cause attributable to the employer as defined by Iowa law. Therefore, benefits must be denied.

DECISION:

The June 15, 2010, reference 01, decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such

time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css