

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LYNETTE R GASSMANN
Claimant

PETSMART INC
Employer

APPEAL 19A-UI-02694-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/03/19
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 21, 2019, (reference 04) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit her employment for personal reasons. The parties were properly notified of the hearing. A telephonic hearing was held on April 17, 2019. The claimant, Lynette R. Gassmann, participated. The employer, Petsmart, Inc., participated through witness Marco Sanders, Store Leader; and Jackie Boudreaux of ADP represented the employer.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time, most recently as a merchandise inventory leader, from February 11, 2019, until February 22, 2019, when she quit. Claimant went into work on February 22, 2019, and spoke with Sanders. Claimant told Sanders that she was quitting effective immediately because the job was not what she wanted to do with her career. Sanders asked claimant if she could stay on and at least complete some of her upcoming shifts, and claimant said no. Claimant was upset because she would have to perform cashier duties and because she did not know her schedule enough in advance. Continued work was available, had claimant not quit her job.

Claimant called the store on Friday, February 15, to learn her schedule for the upcoming week. The assistant manager told claimant that the schedule was not completed yet. Claimant would have to wait until her shift on Sunday, February 17, to find out her upcoming week's schedule. This did not work for claimant, as she needed to know her schedule for her children.

Claimant was hired for a full-time position doing inventory. The bulk of claimant's job duties would involve unloading trucks twice each week, doing store resets, and doing sale set-ups. However, claimant would also have to perform back-up cashier duties and other store duties in

order to reach 40 hours each week. Every employee in the store has back-up duties similar to this.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation was without good cause attributable to the employer. Benefits are withheld.

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.

Iowa Admin. Code r. 871-24.26(1) 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:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

In general, a substantial pay reduction of 25 to 35 percent or a similar reduction of working hours creates good cause attributable to the employer for a resignation. *Dehmel v. Emp't Appeal Bd.*, 433 N.W.2d 700 (Iowa 1988).

In this case, claimant quit her employment because she did not want to perform cashier duties. While claimant understandably wanted her job to be entirely inventory, the employer did not have enough inventory work available to give her full-time hours only performing inventory duties. Therefore, claimant was required to perform some back-up duties for other areas of the store, including cashier duties. This was a minor change to her work routine that does not constitute a change in her contract of hire.

Iowa Admin. Code r. 871-24.25 provides:

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 section 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 section 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: ...

- (21) The claimant left because of dissatisfaction with the work environment.
...
(27) The claimant left rather than perform the assigned work as instructed.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). In this case, claimant left her position because she disliked having to perform back-up cashier duties and she wanted to know her schedule farther in advance. While these issues may have been frustrating to claimant, they do not rise to the level of a good-cause reason for quitting a job.

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). Claimant went to Sanders and told him that she was quitting effective immediately. Claimant's decision to quit her employment was without good cause attributable to the employer. Benefits are withheld.

DECISION:

The March 21, 2019, (reference 04) unemployment insurance decision is affirmed. Claimant separated from employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn