

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PENNI M SCHNECKLOTH
Claimant

APPEAL NO. 06A-UI-09562-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HARDEES FOOD SYSTEMS INC
Employer

OC: 08/27/06 R: 04
Claimant: Appellant (2)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Penni Scheckloth filed a timely appeal from the September 21, 2006, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on October 11, 2006. Ms. Schneckloth participated. Regional Human Resources Manager Kim Lucker represented the employer.

ISSUE:

Whether Ms. Schneckloth's voluntary quit was for good cause attributable to the employer. Whether the working conditions were intolerable and/or detrimental and would have prompted a reasonable person to quit the employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Penni Schneckloth was employed by Hardees Food Systems on a full-time basis from June 1, 2006 until August 27, 2006, when she voluntarily quit. Prior to the beginning of August, Ms. Schneckloth was in management training. During the first week of August, Ms. Schneckloth assumed the duties of store manager for the employer's Rockingham Avenue restaurant in Davenport. Ms. Schneckloth's training had occurred at stores other than the Rockingham store. Ms. Schneckloth's immediate supervisor was District Manager Melody Stepp. Ms. Stepp is still employed by Hardees, but did not testify at the hearing.

When Ms. Schneckloth commenced her management duties at the Rockingham store, she was concerned that there was only one other manager on staff. During the second week of August, Ms. Schneckloth asked Ms. Stepp to place a manager from another Hardees at the Rockingham store for at least two months. Ms. Schneckloth was aware that the employer was attempting to groom one or more employees at the Rockingham store for management positions, but that process was not going quickly or smoothly. During Ms. Schneckloth's employment, the employer had managers from other stores fill in at the Rockingham store on occasion. Shift managers were to supervise some shifts, but were not allowed to work overtime hours. Ms. Schneckloth was concerned that she was working well above 50 hours per week. During one or more weeks, Ms. Schneckloth worked 67 hours. Ms. Schneckloth had signed an

agreement at the beginning of her employment whereby she would be paid for 50 hours' work per week. Ms. Schneckloth had previously worked in restaurant management and understood that some weeks might be busier than others and might require her to work extra hours.

On August 15, 2006, Regional Human Resources Manager Kim Lucker became District Manager Melody Stepp's immediate supervisor. Ms. Lucker planned a radio advertising campaign for August 24-25 to recruit managers for the Rockingham store and others. In addition, Ms. Luck planned to be at the Rockingham store on August 29-30 to recruit staff. Ms. Stepp was aware of these plans, but Ms. Schneckloth was not.

On Sunday, August 27, Ms. Schneckloth left her work keys and a note for the cooks to see the next morning or whoever else might notice the items the next morning. Ms. Schneckloth wrote that she could not work unrealistic hours. Ms. Schneckloth did not otherwise notify Ms. Stepp or Ms. Lucker of her decision to quit the employment.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Ms. Schneckloth's voluntary quit was for good cause attributable to the employer. It does.

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 requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005).

The evidence in the record indicates that the employer placed Ms. Schneckloth at a store that was in the middle of a staffing crisis. The efforts to which the employer was going in an attempt to cover shifts and recruit new staff to the Rockingham store are all indicative of a significant staff shortage and corroborate Ms. Schneckloth's assertion that she was working excessive hours. The lack of staff caused Ms. Schneckloth to work well above the 50 hours per week to which she had committed. The additional 17 hours per week Ms. Schneckloth was required to work represented a 34 percent increase over the 50 hours per week that Ms. Schneckloth reasonably expected to work. Ms. Schneckloth brought her concerns to the attention of the employer, but was otherwise powerless to resolve these concerns. The circumstances facing

Ms. Schneckloth at the start of her management were in fact intolerable and detrimental and would have caused a reasonable person to quit the employment.

Ms. Schneckloth quit the employment for good cause attributable to the employer. Accordingly, Ms. Schneckloth is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to Schneckloth.

DECISION:

The Agency representatives September 21, 2006, reference 01, decision is reversed. The claimant quit the employment for good cause attributable to the employer. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw