

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DIANE E JOHNS**  
Claimant

**APPEAL NO: 08A-UI-10532-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KRAJICEK PALLET INC**  
Employer

**OC: 10/05/08 R: 01  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Diane E. Johns (claimant) appealed a representative's October 31, 2008 decision (reference 01) that concluded she was not qualified to receive benefits, and the account of Krajicek Pallet, Inc. (employer) would not be charged because the claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 25, 2008. The claimant participated in the hearing with her witness, Faye Walker. Paul McCollough, the operations manager and safety manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**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 on January 2, 2008. The employer hired the claimant to work as a full-time dispatcher. Shawn Malone supervised the claimant. The claimant did not have any problems at work until the employer hired McCollough as the operations manager. McCollough's job responsibility included cracking down on employees to make sure everyone performed the assigned job satisfactorily. As a result, there were times McCollough reprimanded the claimant for poor job performance. The claimant did not like McCollough raising his voice at her when he reprimanded her. McCollough raised his voice when reprimanding the claimant about six times since he began working in June 2008.

The claimant and Walker, another dispatcher, did not believe it was appropriate for McCollough to rub Malone's shoulders. McCollough did not know the claimant found this offensive. The owner did not talk to McCollough about any problems the claimant may have raised about McCollough. While the claimant talked to co-workers about McCollough's inappropriate behavior, Walker did not know if the claimant reported any problems to the owner. McCollough knew the claimant threatened to quit a number of times. He also knew the claimant told the employer on September 1 that September 30 would be her last day of work. On September 15,

the claimant confirmed that September 30 would be her last day of work because she had accepted other employment. The claimant understood the owner asked her to reconsider her resignation because he would talk to McCullough and Malone and tell them to stop yelling at her. Even though the claimant saw no improvement in the work environment, she contacted the other employer and declined the new job offer the week of September 15.

On September 18, Malone and Walker quit their jobs. On September 22, the claimant was the only employee working as a dispatcher. Typically, four employees dispatch drivers. After McCullough's meeting with the owner ended he discovered paperwork the claimant had not completed properly. McCullough reprimanded her for failing to do her job correctly. The owner was present and did not say anything to McCullough or the claimant. The claimant then decided to quit because she did not like McCullough reprimanding her and she felt he yelled at her even though she was doing the best job she could under the circumstances. The claimant quit because she could no longer tolerate McCullough's remarks or reprimands.

### **REASONING AND CONCLUSIONS OF LAW:**

The first issue to address in this case is the credibility of the witnesses. Walker's testimony is deemed more credible than the claimant or McCullough's testimony. This conclusion is based on the fact Walker has no vested interest in this case and was not present for the entire hearing. As a result, she contradicted some of the claimant's exaggerations and McCullough's testimony. She also confirmed some of the testimony even though she did not know what either had testified.

The claimant did not like it when McCullough reprimanded her. A preponderance of the credible evidence does not support the claimant's assertion that McCullough constantly yelled and screamed at her. McCullough may have raised his voice when he reprimanded the claimant for unsatisfactory job performance, but this did not regularly occur. While McCullough may not have known employees considered some of his behavior inappropriate when he interacted with Malone, as a supervisor he should have conducted himself in a more professional manner in the office. Also, although McCullough did not make inappropriate comments directly to Walker or the claimant, he made unprofessional comments about them to Malone, which Walker overheard. The evidence reveals the claimant did not like McCullough, she did not get along with him and she did not appreciate being reprimanded.

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code section 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 section 96.6-2.

The law presumes a claimant quits without good cause when she leaves after she has been reprimanded, she leaves because of a personality conflict with a supervisor, or leaves to seek other employment but did not secure employment or work for another employer. 871 IAC 24.25 (28), (22) and (3). The law also presumes a claimant quits with good cause when she leaves because of intolerable working conditions. 871 IAC 24.26(4).

A preponderance of the credible evidence does not support the claimant's assertion that she worked in a hostile working environment or intolerable working conditions. Instead, the facts establish the claimant quit her employment on September 1 when she told the employer her last day of work would be September 22. Even though the claimant testified she told the owner she would continue working instead of accepting a new job, the evidence does not establish that the employer actually allowed the claimant to rescind her resignation. Since she initially quit for

another job, but she never worked at a new job, the claimant did not establish that she quit for reasons that qualify her to receive benefits.

In the alternative, if the employer allowed the claimant to rescind her resignation, the claimant quit on September 22 after the employer reprimanded her for unsatisfactory job performance. The claimant may have been working to the best of her ability that day, but she still quit after the employer reprimanded her for failing to satisfactorily complete a job task.

The claimant established personal reasons for quitting. The facts do not, however, establish that she quit for reasons that qualify her to receive benefits. As of October 5, 2008, the claimant is not qualified to receive benefits.

**DECISION:**

The representative's October 31, 2008 decision (reference 01) is affirmed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of October 5, 2008. 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.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs