

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BREANNA FLORES
Claimant

APPEAL NO: 13A-UI-08966-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KUM & GO LC
Employer

OC: 07/07/13
Claimant: Appellant (1)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Breanna Flores (claimant) appealed an unemployment insurance decision dated July 26, 2013, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Kum & Go, LC (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 10, 2013. The claimant participated in the hearing. The employer participated through Jim Eckman, General Manager. Employer's Exhibit One was admitted into evidence.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time sales associate from December 5, 2012 through July 15, 2013 when she was discharged for job abandonment. She last worked on June 21, 2013 and was on vacation until June 30, 2013. The claimant failed to call or show up for her shifts on July 1, 4, 5, 7, 8, 10, 11, and 14, 2013. She contacted the employer on July 15, 2013 to ask for the separation documents.

The claimant never said she quit but testified she did not want to return to work because she was angry that the employer had delayed approving a credit loan for \$300.00. She was desperate for the loan and it was eventually approved two weeks after she missed her first shift but she felt she was treated differently than other employees. The loan had nothing to do with her job and the manager had no connection to the loan other than to provide the loan paperwork.

The claimant had medical problems which made working in the kitchen harder for her but she had no medical restrictions. She was assigned to the kitchen because the employer was short-staffed and the claimant did a good job. The kitchen work was part of her job duties but

the claimant felt the employer should have assigned her elsewhere based on her requests. She was also upset that she had to work split shifts, however, the manager always asked her permission before scheduling her. The claimant was upset that she only earned \$7.75 per hour but new employees were purportedly starting at \$8.25 per hour. The manager came to that store after the claimant was hired and he started all new employees at \$8.00 per hour without knowing the store's previous practices. Once the manager and corporate office became aware of the discrepancy, the claimant's hourly rate was increased to \$8.00 per hour.

There was one incident of sexual harassment by a former manager but he was moved to a different store shortly thereafter. The corporate office told the claimant there was nothing that could be done since he no longer worked with her. The claimant was friends with a co-worker who grabbed her on her butt, called her love, texted her and showed up at the claimant's house. The claimant was uncomfortable with it and put some distance in the friendship. When she reported it to the corporate office, she felt the corporate office was dismissive. The claimant also reported verbal harassment from one employee to another and she did not like how the corporate office handled her complaint since it was obvious she was the individual who had complained. The one employee acted differently towards the claimant after that call. There were no complaints that the claimant was verbally harassed.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980) and *Peck v. Employment Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out by failing to return to work after her vacation ended on June 30, 2013.

The claimant did not return to work due to the work conditions. 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). "Good cause" for leaving employment 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). The evidence provided by the claimant does not rise to an intolerable or detrimental work environment.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated July 26, 2013, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css