

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRENDA M HARE
Claimant

APPEAL NO. 09A-UI-10028-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

"M & T DERBY INC
Employer

OC: 06/07/09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Brenda Hare filed a timely appeal from a representative's decision dated July 9, 2009, reference 01, which denied benefits based upon her separation from Happy Joe's Pizza. After due notice a hearing was scheduled for and held on July 29, 2009. The claimant participated personally. Participating as a witness for the claimant was Kathey Coulter, Former Employee. The employer participated by Monty Derby, Owner/Operator.

ISSUE:

The issue in this matter is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered the evidence in the record, finds: Brenda Hare was most recently employed by Happy Joe's Pizza from October 15, 2007 until June 5, 2009 when she voluntarily left employment. Ms. Hare held the position of full-time shift manager trainee and was paid by the hour. Her immediate supervisor was the company owner/manager, Monty Derby.

Ms. Hare voluntarily quit employment on June 5, 2009 based upon an incident that had occurred the day before on June 4, 2009. On that date the company owner noted a pizza sales ticket that had been "couponed out." As the transaction seemed unusual, Mr. Derby questioned employees about the order. When Ms. Hare admitted that she had ordered the pizza using a manager's food allowance coupon to "give the pizza to her sister" the claimant was informed that procedure was unacceptable. Managers are allowed \$75.00 per week in food purchases for their personal use or the use of their immediate family who reside in the same household.

Ms. Hare felt personally embarrassed by the incident and left work without authorization approximately two hours later indicating to other employees that she was considering quitting her job.

In addition to the claimant's dissatisfaction with being confronted about a violation of the manager's food purchase policy, the claimant was dissatisfied because she felt the employer had been unduly harsh at times and critical while performing his duties overseeing employees. The claimant also became dissatisfied after reflecting upon consensual banter that had taken place in the past and decided to leave employment.

Prior to leaving employment, Ms. Hare did not complain to Mr. Derby about the conduct that she found to be embarrassing or unacceptable. Ms. Hare did not complain to the corporate management about Mr. Derby's conduct before leaving employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily left this 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.

871 IAC 24.25(21), (22), (28) 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.

(22) The claimant left because of a personality conflict with the supervisor.

(28) The claimant left after being reprimanded.

An individual who voluntarily leaves their employment due to alleged work-related dissatisfaction must first give notice to the employer of the reasons of dissatisfaction in order to give the employer an opportunity to remedy the situation. Suluki v. Employment Appeal Board, 503 N.W.2d 402 (Iowa 1993). An employee who receives a reasonable expectation of assistance from the employer after complaining about working conditions must complain further if the conditions persist in order to preserve eligibility for benefits. Polley v. Gopher Bearing Company, 478 N.W.2d 775 (Minn. App. 1991).

Inasmuch as the claimant did not give the employer an opportunity to resolve her complaints prior to leaving employment, the separation was without good cause attributable to the employer. The employer was reasonable in inquiring about an unusual coupon transaction Benefits are denied.

DECISION:

The representative's decision dated July 9, 2009, reference 01, is affirmed. The claimant voluntarily left her 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, providing that she is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs