

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LEAH K JOHNSON
Claimant

APPEAL NO. 06A-UI-08958-A

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS FARGO BANK
Employer

**OC: 08/06/06 R: 01
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Leah K. Johnson filed a timely appeal from unemployment insurance decision dated August 30, 2006, reference 01, which disqualified her for benefits. After due notice was issued, a hearing was held in Sioux City, Iowa on October 11, 2006 with Ms. Johnson participating and being represented by William Niebel, Attorney at Law. Store manager Jeanette Keairns participated for the employer, Wells Fargo Bank.

ISSUE:

Did the claimant voluntarily leave work with good cause attributable to the employer?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Leah K. Johnson was employed part-time as a teller by Wells Fargo Bank from January 26, 2006 until she resigned June 20, 2006.

Wells Fargo Bank was investigating a thousand dollar shortage in Ms. Johnson's cash drawer on June 19, 2006 when Ms. Johnson gave two weeks' notice of her intention to resign. She told store manager Jeanette Keairns that she was unhappy and that she was moving to California. The company paid Ms. Johnson for the two weeks of her notice.

In reaching her decision to resign, Ms. Johnson also considered an exchange between her and a coworker who made a reference to African Americans using the term "dog" when addressing one another. Ms. Johnson reported this incident to store manager Jeanette Keairns who addressed the situation immediately. Calling the two individuals into a meeting with the district manager, the coworker apologized for his comment while Ms. Johnson apologized for an earlier comment she had made to him, "If God had wanted you to be a woman, he would have made you one."

Ms. Johnson also considered an incident which had occurred in April 2006 at which time her accounts had been garnished. There was an error in the garnishment which the employer corrected in approximately four days.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant left work with good cause attributable to the employer. It does not.

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.

The claimant has the burden of proof. See Iowa Code section 96.6-2. The claimant's testimony changed in several regards during the hearing. Her initial testimony was that it took two weeks for the employer to correct the problem with the garnishment. She corrected her testimony under questioning from her attorney. She initially stated that the investigation of the shortage had been concluded and that she had been exonerated before she submitted her resignation. This testimony, too, changed under questioning by her attorney. In her description of the incident with the coworker, she initially neglected to mention her comments to the coworker. The full version came out during cross-examination.

The administrative law judge concludes that the claimant resigned during the investigation of her cash shortage and that she engaged in banter with an apparently gay coworker which had earlier resulted in mutual apologies. The administrative law judge concludes that the claimant did not have good cause attributable to the employer for her resignation. Benefits are withheld.

DECISION:

The unemployment insurance decision dated August 30, 2006, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

cs/cs