

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LORIANN A CHILDS
Claimant

HY-VEE INC
Employer

APPEAL 15A-UI-08757-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/20/14
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 3, 2015, (reference 09) unemployment insurance decision that denied benefits based upon the determination she did not furnish enough evidence to show she voluntarily quit her employment with good cause attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on August 26, 2015. Claimant Loriann Childs participated on her own behalf. Employer Hy-Vee participated through Wine and Spirits Manager Eric Dodge and was represented by Dane Swenson of Corporate Cost Control, Inc. Claimant's Exhibit A was received. Employer's Exhibits 1 and 2 were received.

ISSUE:

Did the claimant voluntarily quit the employment with good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed part-time as a Wine and Spirits Clerk beginning April 16, 2015, and was separated from employment on July 3, 2015, when she quit. When the claimant was hired, she received mostly on-the-job training. She worked seven shifts before she received her cashier number because the store was going through a grand re-opening and everyone was busy. During her tenure, the claimant reported to her supervisor, Wine and Spirits Manager Eric Dodge, that other employees were using their cell phones on the floor. She reported that other employees were buying alcohol on the clock and then taking it to their vehicles so that the managers would not see it had been purchased during working hours. She also reported the other employees returned unopened bottles of alcohol which she believed was a violation of federal law. Finally, on two occasions she was scheduled to close the Wine and Spirits Department by herself.

On June 30, 2015, the claimant was called to the office by Dodge to meet with him and Human Resources representative, Ashley to discuss customer complaints. There had previously been beer spilled in front of the registers in the claimant's department. The claimant blocked it off and worked on cleaning it up. While she was cleaning it and the floor was drying, she directed customers to the front of the store with their purchases. Dodge and Ashley spoke to the

claimant about her attitude and customer complaints they had received related to her attitude. The customers reported that the claimant seemed "mad." During the conversation, Ashley and Dodge asked the claimant if she liked her job. She indicated she did not receive proper training, but declined the extra training they offered her. They also asked her if she wanted to transfer to a new department or area and she declined. The claimant was not issued any formal disciplinary action at the time, but was told that if the customer complaints continued she could be subject to further discipline. That was the claimant's last day worked for the employer.

On July 3, 2015, the claimant sent an email to Dodge stating she was quitting her employment. She stated she was resigning her employment because of calls up to the office because they incorrectly believed she was "mad." She had also seen a representative from a former employer who she believed was influencing the employer's decisions related to her employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer. Benefits are denied.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.26(2) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(2) The claimant left due to unsafe working conditions.

Iowa Admin. Code r. 871-24.25(6), (21) and (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 § 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 § 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:

(6) The claimant left as a result of an inability to work with other employees.

(21) The claimant left because of dissatisfaction with the work environment.

(28) The claimant left after being reprimanded.

Iowa Admin. Code r. 871-24.26(6)b provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(6) Separation because of illness, injury or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

The claimant has provided a myriad of reasons for her decision to quit. However, based on the timeframe and her resignation email, the claimant quit her employment because she had been called to the office about the customer complaints. She felt it was belittling to be called to the office "like a two-year old" and told to smile more. She also claimed she quit because on multiple occasions her co-workers were not following the employer's rules.

The claimant did testify about a safety concern she had. Specifically, she had a fear that a customer might come into the store and pull out a weapon of some kind as it was known to happen on the east side of Waterloo. However, it had never happened at her location. Accepting her assertion that the store is on the east side of town, that is still not a good cause attributable to the employer. She knew the location of the store when she took the job and there is nothing indicating the employer made the worksite an unsafe working environment.

Additionally, the claimant testified her anxiety was aggravated by her employment. However, she never notified her supervisor that there were issues aggravating her anxiety nor did she request some sort of accommodation. She also did not provide any evidence to support her assertion that it was the workplace and not other personal issues that were causing an increase in her anxiety.

Quitting after a reprimand, not getting along with co-workers, and a dislike of the work environment are not good-cause reasons that are attributable to the employer according to Iowa law. The claimant has failed to show the employer made the environment unsafe or that she left work because the environment exacerbated her illness. Benefits must be denied.

DECISION:

The August 3, 2015, (reference 09) unemployment insurance decision is affirmed. The claimant voluntarily left the 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, provided she is otherwise eligible.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/pjs