

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

SHELBY V ROSE

Claimant

APPEAL NO. 18A-UI-08092-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOLGENCORP LLC

Employer

OC: 07/01/18

Claimant: Appellant (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Shelby Rose (claimant) appealed a representative's July 25, 2018, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Dolgencorp (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for August 17, 2018. The claimant participated personally. The employer participated by Lisa Whitcomb, District Manager.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

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 hired on October 21, 2017, as a part-time sales associate. On May 7, 2018, the claimant suffered a work-related hand injury. The employer sent her for medical treatment and she received six stitches in her hand. The claimant returned to work with a note from the medical professional. It stated the claimant was restricted to working four hours per day for one week.

On May 8, 2018, the employer scheduled the claimant to work 4.75 hours and the claimant worked the hours the employer scheduled. The claimant's supervisor, Jessica, told a customer that the claimant was a "stupid bitch" and she could not see how the claimant could have cut her hand. The claimant called Jessica's supervisor, Jodi, to complain about Jessica's comments. Jodi said she would talk with Jessica.

On May 9, 2018, the claimant was scheduled to work from 3:00 p.m. to 9:15 p.m. The claimant talked to Jessica about complying with her work restrictions and working four hours. The claimant understood Jessica to say she had to find another employee to work the claimant's hours or she did not have a job. The claimant tried to find someone else to work her hours but could not find anyone. She saw a text message where Jessica said she would not work for the "stupid bitch".

On May 9, 2018, the claimant called the district manager. She said Jessica was calling her names and forcing her to work outside of her medical restrictions. The district manager did not take any notes about the conversation, talk to Jessica, or conduct an investigation. The claimant resigned due to harassment.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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(4) 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:

- (4) The claimant left due to intolerable or detrimental working conditions.

The law presumes a claimant has left employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. *Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant*, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The claimant notified the employer that her supervisor was calling her names and forcing her to work outside of her medical restrictions. The employer did nothing. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits, provided she meets all the qualifications.

DECISION:

The representative's July 25, 2018, decision (reference 01) is reversed. The claimant voluntarily quit with good cause attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs