

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER L ANDERSON
Claimant

APPEAL NO. 14A-UI-00151-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS LANE INC
Employer

OC: 12/01/13
Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Jennifer Anderson filed a timely appeal from the December 24, 2013, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on January 29, 2014. Ms. Anderson did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Kathy Peugh represented the employer. The administrative law judge took official notice of the agency's administrative record (APLT and Clear2There Hearing Control Screen) that document the claimant's failure to provide a telephone number for the hearing. The administrative law judge took official notice of the agency's administrative record (DBRO) that indicates this employer was the claimant's sole base period employer.

ISSUE:

Whether Ms. Anderson's voluntary quit was for good cause attributable to the employer. It was not.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Jennifer Anderson was employed by Express Lane, Inc., as a part-time cashier at the employer's convenience store in Clinton from 2011 until September 11, 2013, when she voluntarily quit due to a personality conflict with her immediate supervisor, Jennifer Hartman.

Ms. Anderson had last performed work for the employer on August 30, 2013. Ms. Anderson was then off work due to illness. Ms. Anderson provided a medical excuse to support her need to be off through September 2, 2013. On September 1, Ms. Anderson telephoned Ms. Hartman and said that she would be returning to the doctor and would require additional time off. Ms. Hartman told Ms. Anderson that she would need to provide a medical excuse to cover the absence. On September 6, 2013, Ms. Anderson participated in a conference call with Ms. Hartman and with Kathy Peugh, who was the supervisor over multiple stores. Ms. Anderson asked whether she still had a job. The employer advised Ms. Anderson that she did indeed still have a job. The employer then put Ms. Anderson on the schedule to work September 12, 13 and 14, 2013. On September 11, 2013, Ms. Anderson telephoned the

workplace and spoke to a coworker. Ms. Anderson told the coworker that she would not be returning to the employment. Ms. Anderson did not provide any notice to Ms. Hartman or Ms. Peugh that she would not be returning. Ms. Peugh directed Ms. Hartman to continue to assume that Ms. Anderson would appear for scheduled shifts. Ms. Anderson did not appear for the shifts scheduled for September 12, 13, and 14, 2013. Ms. Anderson did not return to the employment or make further contact with the employer. The employer continued to have the same employment available for Ms. Anderson.

This employer is Ms. Anderson's sole base period employer.

REASONING AND CONCLUSIONS OF LAW:

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(22) 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:

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

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Ms. Anderson did not appear for the appeal hearing and did not present any evidence to support the allegation that her voluntary quit was for good cause attributable to the employer. The weight of the evidence indicates that Ms. Anderson voluntarily quit due to a personality conflict with her immediate supervisor. Ms. Anderson's voluntary quit was without good cause attributable to the employer. Ms. Anderson is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits.

An individual who voluntarily quits part-time employment without good cause attributable to the employer and who has not re-qualified for benefits by earning ten times her weekly benefit amount in wages for insured employment, but who nonetheless has sufficient other wage credits to be eligible for benefits may receive reduced benefits based on the other base period

wages. See 871 IAC 24.27. Because Ms. Anderson has no other base period employers, Ms. Anderson lacks other base period wages upon which reduced benefits might be based and is not eligible for reduced benefits.

DECISION:

The Agency representative's December 24, 2013, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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