

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KAREN L SAMBDMAN
Claimant

APPEAL NO. 10A-UI-14213-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

K MART CORPORATION
Employer

OC: 09-12-10
Claimant: APPELLANT (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 7, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on November 24, 2010. The claimant did participate. The employer did participate through Tracy Ray, Store Manager; Sherry Sahrenkurg, Human Resources Manager; and Lisa Baman, Backroom Lead.

ISSUE:

Did the claimant voluntarily quit her employment without 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 as a cashier, part-time, beginning September 2, 2008, through September 8, 2010, when she voluntarily quit.

One of the cashier's job duties was to bring in carts from the parking lot for customers to use. In the past, the claimant had brought in carts on many numerous occasions. The customer service representative Roxanne asked the claimant to go to the parking lot and gather carts. Roxanne reported to the supervisor that the claimant would not go out and get carts from the parking lot. The claimant was called into the office, where Lisa Baman and Sherry Sahrenkurg wanted to discuss with her the situation regarding retrieving carts from the parking lot. Tracy Ray came into the meeting. All four individuals were present during the entire conversation with the claimant and each testified at the hearing. Ms. Ray began to question the claimant to find out if she had refused to bring in the carts and the claimant became angry. Ms. Ray did not tell the claimant she was discharged and had no intention of discharging her, merely of inquiring about a complaint made by a coworker. The claimant threw her name tag and smock on the counter, said she was "not going to take it anymore," and left the store. No one told the claimant that she was discharged, the claimant voluntarily quit due to an inquiry that could have led to a reprimand.

The claimant would have been allowed to bring in carts a few at a time. The claimant had no doctor's restrictions that would have prohibited her from bringing in the carts, even two or three at a time.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer.

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.

871 IAC 24.25(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:

(28) The claimant left after being reprimanded.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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 employer was within their rights to inquire with the claimant about the cart situation. No one on behalf of the employer ever told the claimant she was being discharged. The claimant quit because she may have been reprimanded about the cart situation. While claimant's decision to quit may have been based upon good personal reasons, it was not a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied.

DECISION:

The October 7, 2010 (reference 01) decision 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, provided she is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw