

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAUREN WHITMAN
Claimant

APPEAL NO: 12A-UI-05326-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

STEVEN R WILSON
d/b/a DAIRY QUEEN
Employer

OC: 04/08/12

Claimant: Respondent (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Steven R. Wilson, doing business as Dairy Queen, (employer) appealed a representative's May 3, 2012 decision (reference 01) that concluded Lauren Whitman (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 30, 2012. The claimant participated in the hearing. Rose Wilson appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

OUTCOME:

Affirmed. Benefits allowed.

FINDINGS OF FACT:

The claimant started working for the employer on May 11, 2011. She worked part time (25 - 35 hours per week) as a front counter person. Her last day of work was April 9, 2012. She voluntarily quit work as of that date.

On April 9 the claimant was scheduled to work a shift from 5:00 p.m. to close (approximately 10:00 p.m.). At about 7:00 p.m. she informed her shift manager that she was suffering very bad menstrual cramps and asked to be allowed to leave work. The shift manager called the manager/co-owner, Ms. Wilson, and passed along the claimant's request, with the observation that it did not appear to her that the claimant's cramps were so bad that she could not work. Wilson responded that the claimant should be told she could not leave, but that she should work through her cramps. When the claimant heard this from the shift manager, she called Wilson directly and again expressed that her cramps were too bad for her to be able to continue

working through the shift; Wilson again indicated she needed the claimant to stay and keep working. When the claimant then inquired as to whether she was supposed to quit, Wilson told the claimant that that was her decision. The claimant determined that she needed to leave due to the severity of her cramps, and left her shift at about 7:00 p.m., understanding that this meant she was quitting her employment.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. Intolerable or detrimental working conditions are good cause for quitting attributable to the employer. 871 IAC 24.26(4).

“Good cause attributable to the employer” does not require fault, negligence, wrongdoing or bad faith by the employer, but may be attributable to the employment itself. *Dehmel v. Employment Appeal Board*, 433 N.W.2d 700 (Iowa 1988); *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787 (Iowa 1956). While the employer may have had a good business reason for not allowing the claimant to leave when she indicated that she was not physically able to continue working her shift, that a reasonable person would find the employer’s requirement that she stay under those circumstances was a detrimental or intolerable work environment. *O'Brien v. EAB*, 494 N.W.2d 660 (Iowa 1993); *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (FL App. 1973). Benefits are allowed.

DECISION:

The representative’s May 3, 2012 decision (reference 01) is affirmed. The claimant voluntarily quit for good cause attributable to the employer. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css