

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEANETTE ANDERSON
Claimant

APPEAL NO: 06A-UI-09098-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

METZ BAKING CO
Employer

**OC: 03-26-06 R: 04
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from the August 31, 2006, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on September 26, 2006. The claimant participated in the hearing. Melissa Schmidt, Human Resources, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time machine operator for Metz Baking Company from September 27, 2004 to August 2, 2006. On August 1, 2006, a co-worker told night supervisor Bill Durr that the claimant refused to help him and Mr. Durr confronted the claimant who told him that the co-worker did not help her a few days earlier. Mr. Durr told her it was not the co-worker's job to help her but it was her responsibility to get all the pans together. The claimant started walking away and Mr. Durr told her not to walk away from him when he was talking to her. The claimant continued walking away and said she could walk away if she wanted to and he could not tell her to stop walking. Mr. Durr said he was her supervisor and she needed to listen to him but she walked away again. Mr. Durr told her to stop walking and the claimant told him to send her home but he told her he was not going to do so. He stated he was going to write her up for insubordination and the claimant started walking past the mixers toward the door. When Mr. Durr asked her if she was leaving she kept walking and he told her that if she kept walking she was done. The claimant turned around and got her tools and left. The employer determined the claimant abandoned her job. Approximately one year earlier the claimant walked off the job but reported for work the next day and asked for her job back and the employer allowed her to return.

The claimant has claimed and received unemployment insurance benefits since her separation from this employer.

REASONING AND CONCLUSIONS OF LAW:

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

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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. While the claimant was upset about an incident with a co-worker that does not excuse her decision to walk away from Mr. Durr when he was speaking to her. Mr. Durr told her several times to stop walking but the claimant ignored his instructions and continued walking away even after being informed she would lose her job if she chose to walk out. Although the claimant may have been dissatisfied with the work environment, she has not demonstrated that her leaving was due to unlawful, intolerable, or detrimental working conditions as defined by Iowa law. Consequently, the administrative law judge concludes the claimant voluntarily left her employment and has not demonstrated that her leaving was for good cause attributable to the employer. Benefits are denied.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Because the claimant's separation was disqualifying, benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law.

DECISION:

The August 31, 2006, reference 01, decision is reversed. The claimant voluntarily left 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. The claimant is overpaid benefits in the amount of \$1,680.00.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/cs