

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

MELINDA J SMITH
Claimant

APPEAL NO: 18A-UI-08214-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALS CORNER OIL CO
Employer

OC: 07/15/18
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 31, 2018, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 22, 2018. The claimant participated in the hearing. Cindy Tiefenthaler, Office Manager and Thia Allum, Manager, participated in the hearing on behalf of the employer. Employer's Exhibits One through Four were admitted into evidence.

ISSUE:

The issue is whether the claimant voluntarily left her employment with 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 full-time clerk for Al's Corner Oil, Co. from July 18, 2017 to July 10, 2018. She voluntarily left her employment when the employer issued her two written warnings.

On July 7, 2018, Manager Thia Allum was getting ready to leave and noticed the coffee was low so she started another pot. The claimant said she was just over by the coffee and Ms. Allum said it was empty so "I just started it." Ms. Allum went out the back door and was standing by her car when the claimant came out and yelled, "The coffee is overflowing." Ms. Allum said the pot was empty and the claimant said, "No it was not" and slammed the back door. Ms. Allum went back inside and told the claimant, "If you are going to continue to have an attitude you can go home," and the claimant yelled, "I'm calling Al's Corner." Ms. Allum said, "Please do." The claimant called the employer and talked loudly in front of customers and a kitchen employee about the coffee pot. Ms. Allum texted her supervisor and told her what happened. Her supervisor said the claimant had called Al's Corner.

On July 8, 2018, co-worker Heather came out of the cooler and noticed the claimant had ice cream mix in her hand (Employer's Exhibit Three). Heather stated she put one bag of each mix in the ice cream machines and showed the claimant where she was told it was to be filled

(Employer's Exhibit Three). The claimant stated, "I have worked here for six years. I know where to fill it to (sic)" (Employer's Exhibit Three). Heather turned and walked back into the cooler and the claimant said, "Great. Walk away from me when I'm talking to you," in front of customers (Employer's Exhibit Three). Heather called Ms. Allum and told her about the incident. Ms. Allum was on her way to the store at the time and when she arrived Heather was outside and told Ms. Allum she wanted to quit over the incident. Ms. Allum told her she was going to call her supervisor and let her know what happened. On July 9, 2018, Ms. Allum's supervisor directed her to issue the claimant written warnings for the July 7 and July 8, 2018, incidents (Employer's Exhibits One and Two). When the claimant reported for work July 10, 2018, Ms. Allum asked her to come into the office where she presented her with the two written warnings for creating a hostile work environment (Employer's Exhibits One and Two). The claimant was upset and refused to sign the warnings. She then went and retrieved her purse and walked off the job.

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 § 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. 871-24.25(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 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.

The claimant was still upset about a June 28, 2018, verbal warning she felt was unjust and made several complaints against Ms. Allum during the hearing. The fact she clearly had a personality conflict with Ms. Allum and was unhappy about the verbal warning, however, did not

justify her behavior towards Ms. Allum July 7, 2018, or toward co-worker Heather July 8, 2018. Her actions were inappropriate and unprofessional and created a hostile work environment.

The claimant was dissatisfied with the work environment but has not demonstrated that her leaving was for unlawful, intolerable or detrimental working conditions as required to show her leaving was attributable to the employer. Therefore, benefits are denied.

DECISION:

The July 31, 2018, 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn