

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JERICKA S KENNEDY
Claimant

APPEAL NO. 07A-UI-07725-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

K MART CORP
Employer

**OC: 07/01/07 R: 03
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 1, 2007, reference 02, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on August 28, 2007. Claimant participated. Employer participated through Anisha Tate and Barb Thomas.

ISSUE:

The issue is whether claimant quit the employment without good cause attributable to the employer.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed as a part time cashier and service desk clerk from April 26, 2005 until May 30, 2007 when she quit after an average score on her performance review on May 15, 2007. Issues reviewed included keeping the work area neat and other minor points. She only responded that she would like to work in fashion but mentioned nothing about quitting or disagreement with the review.

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:

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.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). An individual who voluntarily leaves their

employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. *Cobb v. Employment Appeal Bd.*, 506 N.W.2d 445 (Iowa 1993).

Claimant's dissatisfaction with an average performance review was not a good cause reason attributable to the employer for leaving the employment. Benefits are denied.

DECISION:

The August 1, 2007, reference 02, 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.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css