

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KEVIN MANNING

Claimant

APPEAL NO. 07A-UI-04928-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOLGENCORP INC

Employer

**OC: 04/08/07 R: 02
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit
871 IAC 24.27 – Voluntary Quit of Part-Time Employment

STATEMENT OF THE CASE:

Kevin Manning (claimant) appealed an unemployment insurance decision dated May 8, 2007, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Dollar General (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 31, 2007. The claimant participated in the hearing. The employer participated through Jasmine Sanchez, Assistant Manager. 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:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a part-time cashier/stocker from 2006 through March 6, 2007, when he voluntarily quit. He felt like his co-workers had an attitude against him and did not think he was doing his job. The claimant said that he had to scrub floors when no one else had to scrub floors. He also testified the assistant manager called him a flirt one time and did not stay with him in the back when he had to take out the garbage another time. The assistant manager said that was true because she was the only other one in the store but she was watching him on the camera during the entire time. The general manager went out of town for two weeks, so the assistant manager and employees had to help cover the hours. The claimant usually worked until 2:00 p.m. but was scheduled to work until 3:00 p.m. on two days. He told the assistant manager he could not work until 3:00 p.m. and she told him he did not have a choice, as they all had to work extra hours during that two weeks. The claimant quit instead.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

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 requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry it out when he failed to return to work after March 6, 2007. He felt his co-workers had an "attitude" against him and was angry because he had to work one hour later on two days.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has not satisfied that burden. However, when an individual quits part-time employment without good cause, he can still receive unemployment insurance benefits if he is monetarily eligible based on wages paid by other base-period employers, but only if such wages exist. 871 IAC 24.27. In the case herein, the claimant has no other wages from any other employer except for the employer herein. Consequently, he is disqualified and benefits are denied.

DECISION:

The unemployment insurance decision dated May 8, 2007, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw