

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTINE S NUNEZ
Claimant

APPEAL NO: 17A-UI-12574-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

COLES QUALITY FOODS INC
Employer

OC: 04/23/17
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 4, 2017, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on January 4, 2018. The claimant participated in the hearing. Eric Johnson, Plant Manager and Richard Danover, Second Shift Production Supervisor, participated in the hearing on behalf of the employer.

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 machine operator I utility for Cole's Quality Foods, Inc. from February 11, 2015 to November 9, 2017. She voluntarily left her employment following a disagreement with her supervisor.

On November 9, 2017, a machine operator became ill and left for the day with permission from the employer. Supervisor Richard Danover directed the claimant to take over her position and the claimant became extremely upset and began crying on the floor because she believed another employee with less seniority should have been assigned to that position and because she would have to work an additional two hours. Mr. Danover tried to talk to the claimant about the situation but went to break and returned 10 minutes late. Mr. Danover approached the claimant to tell her she was late and the claimant stated she had three more minutes of break time remaining. The claimant expressed her frustration that two positions were not filled at the time as the employer was going through the bidding process. Mr. Danover brought up the claimant's production because she was three racks of bread sticks behind and had not properly performed troubleshooting on her machine. The claimant asked Mr. Danover if he believed she did that on purpose and he replied it was "not a coincidence that the previous operator didn't have any rework." The claimant said she had to replace eight lugs and Mr. Danover told her that would not account for three racks of rework. The claimant became very vocal and more

upset after Mr. Danover stated she was not meeting the employer's performance expectations. The claimant said, "This is not fair. I fucking quit." Mr. Danover followed the claimant telling her the consequences if she chose to leave but the claimant exited the building and did not return.

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.

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 upset about being moved to a different position because it may have required her to work two additional hours. While Mr. Danover may have made a mistake with regard to seniority and who should be moved to cover the employee who went home ill, there is no evidence he intentionally failed to follow the contract and abide by the seniority rules. He believed the claimant had less seniority than another employee at the time but the claimant became so upset so fast he could not have a civil conversation with her about the issue. The claimant did not calmly assess the situation and address her concerns with Mr. Danover but instead, when he questioned her productivity because she was upset about the move, the claimant responded with profanity and quit her job.

Although the claimant's frustration may be understandable, she has not demonstrated that her decision to voluntarily leave her employment was due to unlawful, intolerable, or detrimental working conditions as required by Iowa law. Consequently, the claimant has not met her burden of proof. Therefore, benefits must be denied.

DECISION:

The December 4, 2017, 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