

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRACI L ZIESER (FOSTER)
Claimant

APPEAL NO. 10A-UI-09951-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

CEDAR VALLEY HABITAT FOR HUMANITY
Employer

OC: 06/06/10
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(21) – Work Environment Dissatisfaction

STATEMENT OF THE CASE:

The claimant appealed a department decision dated July 9, 2010, reference 01, that held she voluntarily quit without good cause attributable to her employer on June 11, 2010, and that denied benefits. A telephone hearing was held on August 30, 2010. The claimant and her attorney, Rachel Suhrbier, participated. Julie Palmer-Nelson, ReStore Director; Jeff Capps, Executive Director; and Alicia Perez, Representative, participated for the employer. Employer Exhibit A and Claimant Exhibits 1, 2, and 3 were received as evidence.

ISSUE:

Whether the claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered the evidence in the record, finds: The claimant worked for the employer as a full-time sales manager from September 1, 2009 to June 11, 2010, though she had worked with the employer before this time through AmeriCorps. The claimant turned in her keys and quit her job without notice on June 11. Prior to quitting, the claimant did not approach her supervisor, Palmer-Nelson, or Director Capps with any issue that she considered was an unlawful working condition and/or any unethical business practice.

Although the claimant did not raise the issue the employer was selling product (doors) unlawfully, because it contained lead paint, this was a consideration for quitting employment. The claimant's manager was lead paint-certified after receiving training, and the claimant was not. Manager Palmer-Nelson denied that employer violated any lead paint law by selling or making available for sale and handling product at the ReStore, and it had test kits available to the claimant to use.

The employer has a gift-in-kind program with Home Depot. Home Depot gifts non-sellable merchandise to the employer to use. The employer does not sell gift-in-kind merchandise that violates any condition of the program to its customers. Prior to quitting, the claimant did not raise this as an issue with her employment.

The employer entered into a Promise Jobs program (EPJ) where it agreed to use workers in the flood recovery effort. The employer was in periodic contact with the program manager about the use of the workers. When the employer could no longer directly use workers in flood control, it pulled them in March 2010. Prior to quitting, the claimant did raise this as an issue with her employment.

The employer received a food donation from a local teamsters union. The employer denies selling any donated food from this or any donor to the public in its store. Prior to quitting, the claimant did not confront the employer that it was requiring her to sell food without a license.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

The administrative law judge concludes the claimant voluntarily quit without good cause attributable to her employer due to dissatisfaction with her work environment on June 11, 2010.

A reasonable employee would have raised the four issues offered by the claimant with the employer prior to quitting without notice. The employer witnesses offered reasonable and credible explanations to the claimant-raised issues, which negate the contention that the employer was conducting illegal and/or unethical business practices. Palmer-Nelson was a certified/trained lead paint examiner, not the claimant. Her expert testimony that the employer did not violate any lead paint product issue carries more weight than claimant's opinion. The claimant offered no specific evidence the employer used any EPJ employee to work in a non-flood-control manner. The employer offered credible testimony that it did not violate the Home Depot gift-in-kind program or sell food as an unlicensed vendor.

DECISION:

The department decision dated July 9, 2010, reference 01, is affirmed. The claimant voluntarily quit without good cause attributable to her employer on June 11, 2010. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw