

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HOLLY M PETERSON
Claimant

APPEAL NO. 07A-UI-06792-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 06/17/07 R: 01
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Holly M. Peterson filed a timely appeal from an unemployment insurance decision dated July 3, 2007, reference 01, that disqualified her for benefits. After due notice was issued, a telephone hearing was held July 24, 2007 with Ms. Peterson participating. Assistant Manager Jason Logsdon testified for the employer, Hy-Vee, Inc. which was represented by David Williams of TALX UC eXpress.

ISSUE:

Did the claimant leave work with good cause attributable to the employer?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Holly M. Peterson worked as a cashier and stocker for Hy-Vee, Inc. from May 26, 2006 until she resigned on or about June 8, 2007. On that date Ms. Peterson was suspended for a week because of attendance violations. She was told that when she returned from suspension she would be working in the grocery store instead of the wine and spirits store. Ms. Peterson did not discuss the number of hours of work. Assistant Manager Jason Logsdon was willing to give her the same number of hours in the grocery store that she had been receiving prior to the suspension. Ms. Peterson did not mention any physical ailments or difficulties associated with being on her feet at the check-out line. Ms. Peterson did not return to the employer after the end of her suspension and did not formally announce her resignation.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant left work with good cause attributable to the employer. It does not.

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.

The claimant has the burden of proof. See Iowa Code section 96.6-2. An individual may receive unemployment insurance benefits if the individual has resigned because of a substantial change in the conditions of employment. See 871 IAC 24.26(1). The evidence does not establish that the transfer from the wine and spirits store to the grocery store constituted a substantial change. The employer testified that rate of pay, number of hours and shifts would remain the same. An individual may receive unemployment insurance benefits under some circumstances because of a resignation because of a medical condition. In order to do so, however, the individual must first put the employer on notice of the nature of the medical condition and of the individual's intent to resign if the medical condition could not be accommodated. See Suluki v. Employment Appeal Board, 503 N.W.2d 402 (Iowa 1993). The claimant spoke of knee problems in her testimony in the hearing, but she did not mention it when speaking to Mr. Logsdon at the time of the suspension.

An individual is disqualified for benefits if the individual resigns as a result of a warning or discipline. See 871 IAC 24.25(28). An individual is also disqualified for benefits if the individual resigns because of general dissatisfaction with the work environment. See 871 IAC 24.25(21). The administrative law judge concludes that the claimant resigned because of her unhappiness with the suspension and because of her displeasure at the prospective transfer. Benefits are withheld.

DECISION:

The unemployment insurance decision dated July 3, 2007, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs