

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARGIE A ROMPOT
Claimant

WESTAR FOODS INC
Employer

APPEAL 16A-UI-04831-DB-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/20/16
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the April 13, 2016, (reference 01) unemployment insurance decision that denied benefits based upon her voluntarily quitting work without good cause attributable to the employer. The parties were properly notified of the hearing. A telephone hearing was held on May 10, 2016. The claimant participated personally. The employer, "Westar Foods Inc., participated through Representative Jeff Oswald; Training Manager and District Manager Cindy Weber; and District Manager Sarah Beisner. Employer's Exhibits 1 and 2 were admitted.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a crew member from May 7, 2015 until February 11, 2016. Claimant's job duties at the fast food restaurant included cooking, cleaning and serving customers.

During the course of claimant's employment she felt that she was completing more job tasks and working harder than her co-workers. Claimant was also upset that her manager came to open the store late on several occasions. Claimant reported this to her district manager, Ms. Weber. The two then came to a mutual agreement where claimant would transfer from store #2 to store #3. This transfer occurred on or about January 12, 2016.

Upon transferring claimant continued having the same problems at store #3 that she was previously having at store #2. Claimant did not feel that her co-workers worked very hard, were lazy, and that her manager showed up to work late on multiple occasions. She discussed this with her the general manager for store #3, Ms. Beisner. On multiple occasions Ms. Beisner

discussed with all the employees the importance of getting job tasks completed on a timely basis and working as a team.

Claimant was also upset with the fact that Ms. Beisner hugged the male employees and male customers. She believed this was sexual harassment. There were also multiple occasions that claimant believed she did not get paid for but this was due to the fact that she was not working because she would arrive early for her shift. When she did report that the manager did not open the store on time, her timecards were fixed and appropriately recorded that she was there and her not working on those occasions were not her fault but rather the manager's fault.

On February 11, 2016, claimant taped a note to the front door of the restaurant. See Exhibit 1. Her note stated that she was quitting and the reasons for her quitting. See Exhibit 1.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from employment was a voluntary quit without good cause attributable to the employer. Benefits are denied.

As a preliminary matter, I find that the claimant was not discharged from employment. Claimant voluntarily quit. As such, claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). Claimant intended to quit and carried that out when she taped her written resignation to the door. After a claimant quits, the next step in the analysis is to determine whether or not the claimant left for 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.

Iowa Admin. Code r. 871-24.25(6) and (37) provide:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(6) The claimant left as a result of an inability to work with other employees.

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

It is clear that the claimant did not like working with her co-workers. Even after the transfer the claimant did not like her co-workers and manager. There was no proof that these co-workers harassed the claimant or were inappropriate to her. Claimant eventually determined that she did not like working in the fast food industry.

While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The April 13, 2016, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left 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.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/css