

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NICOLE M PIETRAROSSO**  
Claimant

**APPEAL NO. 09A-UI-03501-E2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WALLY'S FOOD PRIDE LLC**  
Employer

**OC: 01/04/09**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated February 26, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 30, 2009. Claimant participated personally. Employer participated by Randy Joerz, Owner/Manager.

**ISSUE:**

The issue in this matter is whether claimant voluntary quit without good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on February 19, 2009. She was scheduled to work the next day but did not show up. The claimant quit because she did not feel she was wanted by her employer and the potential change in her hours interfered with her second job. She did not inform her employer but just stopped coming to work. The employer had suspended the claimant for two weeks in January 2009 because he was dissatisfied with the claimant's work. She was in the bakery/deli department. Her employer decided to switch her to cashier on January 19, 2009 and provided one day of training. The claimant's rate of pay was the same for both jobs.

**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 24.25(22) provides:

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 section 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 section 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:

(22) The claimant left because of a personality conflict with the supervisor.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The claimant quit because she had a conflict with her supervisor. There was work available for her to perform at the same rate of pay. The claimant chose to terminate her employment.

**DECISION:**

The decision of the representative dated February 26, 2009, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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James Elliott  
Administrative Law Judge

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Decision Dated and Mailed

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