

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LISA A NICOLETTO
Claimant

APPEAL NO. 12A-UI-13266-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOLGENCORP
Employer

OC: 10/07/12
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Lisa Nicoletto (claimant) appealed a representative's October 26, 2012 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Dolgencorp (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for December 5, 2012. The claimant participated personally. The employer participated by Pat McNorton, District Manager, and Tiffany Williams, Assistant Store Manager.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on September 21, 2010, as a part-time backup lead sales associate. The claimant had a personality conflict with her supervisor and she disagreed with the way she was scheduled. On September 22, 2012, the supervisor told the claimant that recovery was not up to standards and the claimant threw her hands up and left the store for a few minutes. On September 24, 2012, the supervisor asked the claimant to work on her day off because a co-worker became ill. The claimant told the supervisor she could not.

On September 25, 2012, the claimant complained to the district manager that the supervisor was bullying her. The district manager investigated and found no unfair treatment. On September 26, 2012, the claimant quit work because she had a personality conflict with her supervisor, she did not like her work environment, and she was reprimanded on September 22, 2012. Continued work was available had the claimant not resigned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

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.

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). The law presumes a claimant has left employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The claimant argues that she quit due to intolerable or detrimental working conditions. The conditions that she believes were intolerable or detrimental are her work environment, a personality conflict with her supervisor, and after having been reprimanded.

871 IAC 24.25(21), (22), (28) 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:

(21) The claimant left because of dissatisfaction with the work environment.

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

(28) The claimant left after being reprimanded.

When an employee quits work because she is dissatisfied with the work environment, has a personality conflict with her supervisor or after having been reprimanded, her leaving is without good cause attributable to the employer. The issues that comprise the claimant's description of an intolerable or detrimental workplace when taken individually are presumed to be without good cause attributable to the employer. For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer. There was no evidence presented at the hearing of good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's October 26, 2012 decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs