

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

KRYSTAL M DECKER
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CEDAR RAPIDS IA 52402

PEARLE VISION CENTER INC
C/O TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-02898-CT
OC: 02/08/04 R: 03
Claimant: Respondent (3)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Pearle Vision Center, Inc. (Pearle) filed an appeal from a representative's decision dated March 2, 2004, reference 01, which held that no disqualification would be imposed regarding Krystal Decker's separation from employment. After due notice was issued, a hearing was held by telephone on April 20, 2004. Ms. Decker participated personally. The employer participated by Tom Burch, Regional Sales Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Decker was employed by Pearle from November 19 until December 24, 2003 as a part-time retail sales associate working approximately 24 hours each week. She voluntarily quit the employment. Prior to quitting, she had not contacted anyone above her manager to complain about any work-related matters. Ms. Decker knew how to contact the corporate office as she had, on at least once occasion, called the corporate office to report sales figures. She worked with the new store manager for approximately one week before quitting. She did not address any concerns with the managers from other locations who worked in the store prior to the manager who was there at the time she quit. Continued work would have been available if Ms. Decker had not quit.

Ms. Decker filed her claim for job insurance benefits effective February 8, 2004. Pearle is not a base period employer on her claim. She is monetarily eligible to receive job insurance benefits without consideration of her wages earned with Pearle.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Decker was separated from employment for any disqualifying reason. An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code Section 96.5(1). Ms. Decker had the burden of proving that her quit was for good cause attributable to Pearle. Iowa Code Section 96.6(2). Her contentions regarding the treatment she received from her manager, Rhonda, were not found credible. The administrative law judge does not believe a seasoned manager would tell her that she looked like a "fucking slut" or refer to her as "dumb" in the presence of customers. Moreover, Ms. Decker never complained to anyone prior to quitting. If she felt she was being mistreated by management, she could have contacted the corporate office but did not do so. If the manager's treatment was as outrageous as Ms. Decker testified, one would have expected her to complain above the manager.

For the reasons stated herein, the administrative law judge concludes that Ms. Decker has failed to establish that she had good cause attributable to Pearle for quitting. An individual who voluntarily quits part-time employment without good cause attributable to the employer may nevertheless qualify for job insurance benefits if there are sufficient other wage credits to establish a valid claim. See 871 IAC 24.27(96). Wage credits earned with the part-time employer that was quit may not be used on the claim until such time as the individual re-qualifies by earning ten times the weekly benefit amount in insured wages after the disqualifying separation. Ms. Decker has been determined eligible for benefits without consideration of her wages earned with Pearle as they are not a base period employer. Therefore, benefits are allowed to her but shall not be charged to Pearle's account.

DECISION:

The representative's decision dated March 2, 2004, reference 01, is hereby modified. Ms. Decker voluntarily quit her employment for no good cause attributable to the employer but has sufficient other wage credits to establish a valid claim. Benefits are allowed, provided she satisfies all other conditions of eligibility, but shall not be charged to Pearle.

cfc/kjf