

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KRISTINA M GARCIA**  
Claimant

**APPEAL NO. 08A-UI-05762-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALS CORNER OIL CO**  
Employer

**OC: 05/18/08 R: 01  
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated June 13, 2008, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on July 9, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing. Lori Vanderhoff participated in the hearing on behalf of the employer.

**ISSUE:**

Did the claimant voluntarily quit employment without good cause attributable to the employer?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as a store clerk from March 10, 2008, to May 15, 2008. She was informed and understood that under the employer's work rules, employees were required to notify their supervisor if they were not able to work as scheduled and employees who were absent for three consecutive days without notifying the employer were considered to have quit employment. Lori Vanderhoff, the store manager, was the claimant's supervisor.

The claimant was scheduled to work on May 15, 16, 17, 18, and 19, 2008. On May 15, she called Vanderhoff to let her know that she did not have a babysitter to watch her two-year-old daughter. Vanderhoff's daughter had been babysitting for the claimant but would not babysit that day. Vanderhoff told her to bring her daughter into work and she would watch the child. The claimant went into work but made an arrangement with her boyfriend to pick up her daughter and babysit that day. The claimant worked her shift that day. Before Vanderhoff left work that day, she told the claimant to make sure and call her if she was not able to work on May 16.

The claimant was not able to find a babysitter for May 16. She called in early in the morning before the start of her shift and told the employee on duty to let Vanderhoff know that she would not be at work. Later that day, some employees told Vanderhoff that the claimant used profanity after Vanderhoff had left the store on May 15 directed at Vanderhoff and her daughter. Both Vanderhoff and Vanderhoff's daughter called the claimant and left messages on her

voicemail accusing her of using foul language toward them. Vanderhoff spoke with the claimant later in the day regarding her use of profanity at work. The claimant became verbally abusive toward Vanderhoff and called Vanderhoff and her daughter "bitches." The claimant hung up the phone.

On the afternoon of May 16, the claimant spoke to Cindy Tiefenthaler, a supervisor in the employer's main office. She informed Tiefenthaler about what happened between her and Vanderhoff. Tiefenthaler told her that she would contact Vanderhoff and would call her back. There was no discussion about the claimant not reporting to work on May 17, 18, or 19. Vanderhoff expected the claimant to report to work as scheduled. The claimant failed to report to work on May 17, 18, or 19 and did not contact Vanderhoff indicating that she would not be at work.

The claimant called Tiefenthaler on May 19 but Tiefenthaler was not available. The claimant did not leave a message and made no further attempt to contact anyone with the employer afterward. Consequently, the employer deemed the claimant to have voluntarily quit her employment due to her absence without notice for three consecutive days.

#### **REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant voluntarily quit employment 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.

The unemployment insurance rules state that a claimant absent for three days without giving notice to employer in violation of company rule is presumed to have quit employment without good cause attributable to the employer. 871 IAC 24.25(4).

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. I do not believe Vanderhoff said anything to the claimant that could be interpreted as a discharge or that she had been taken her off the schedule to work May 17, 18, or 19. The claimant complained to Tiefenthaler about Vanderhoff's treatment of her, but there was no discussion about the claimant not working on May 17, 18, or 19. The claimant was absent from work for three days without notice to the employer in violation of the employer's policy. Her call to Tiefenthaler on May 19 was not a reasonable attempt to maintain her employment since she did not leave a message or contact Tiefenthaler again.

The claimant abandoned her job by failing to keep in contact with the employer. The evidence fails to establish good cause attributable to the employer for quitting.

**DECISION:**

The unemployment insurance decision dated June 13, 2008, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

---

Steven A. Wise  
Administrative Law Judge

---

Decision Dated and Mailed

saw/pjs