

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ALISIA C MYERS
Claimant

**ANNETT HOLDINGS INC
TMC TRANSPORTATION INC**
Employer

APPEAL NO. 14A-UI-11540-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 06/01/14
Claimant: Appellant (1)**

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Alisia Myers (claimant) appealed an unemployment insurance decision dated November 4, 2014 (reference 01) which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with TMC Transportation, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 1, 2014. The claimant participated in the hearing. The employer participated through General Manager Mike Brockman and Employer Representative Suzanne Bassler.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked as a full-time cook from June 10, 2014 through October 13, 2014 when she voluntarily quit. She testified she quit because she was not getting full-time hours but the employer's records show she worked more than 30 hours per week in all but two of her 12 weeks of employment. The employer needed the claimant to report to work at 6:00 a.m. but she could only begin work at 7:00 a.m. so that cut her availability down to a total of 35 hours per week. The employer witness testified the claimant chose to go home early because she said there were too many people working and she could not stand the chaos. The claimant acknowledged there were too many people working but denies volunteering to go home.

On October 3, 2014 the claimant sent her manager a text message in which she asked for the next week off work because a family member had a terminal illness. The manager responded "Ok." The claimant did not call or report to work on October 13, 2014 as scheduled so the manager called her to ask her about it. The claimant told her manager that she would not be showing up to work for a manager who was heartless and had no sympathy for what she was going through.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980) and *Peck v. Employment Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out by telling her manager that she would not be showing up to work for a manager that was heartless and had no sympathy for what she was going through.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated November 4, 2014 (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/can