

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MACHELL L LONG
Claimant

APPEAL NO. 13A-UI-06697-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 05/12/13
Claimant: Respondent (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated May 28, 2013, reference 01, that concluded the claimant voluntarily quit employment with good cause attributable to the employer. A telephone hearing was held on September 3, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Julia Church participated in the hearing on behalf of the employer with witnesses, Ben Conway, Joe Farley, and Dan Meyers. Exhibits E1-E16 were admitted into evidence at the hearing.

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 cook from May 2007 to May 5, 2013. Her supervisor was the kitchen manager, Dan Meyers.

On the morning of May 5, 2013, Meyers initially came to where the claimant was working and told him she was doing a good job. Later, the claimant got very busy in the kitchen with food orders. She did not have the help she needed and was working hard to keep up. Meyers approached the claimant in a rage and started yelling at her in front of other employees about not keeping up with orders. He threw hash browns and sausages and questioned her about why the new employee hired to do salads was helping her. The claimant asked Meyers if she did anything right and told him she was not the person who arranged for the new employee to help. At one point, Meyers forcefully grabbed the claimant's hand and knocked the spatula out of her hand. He grabbed the spatula, slammed it on the grill, and said let's go. The claimant believed he was going to grab her shirt but he stopped himself. He and the claimant went to the back of the kitchen. The claimant felt like she was having a panic attack because of Meyers' conduct. She asked Meyers if she could go on break. Meyers told her that she could go if someone was available to cook for her and that she better make sure she only took 15 minutes.

The claimant decided that she could not stay at work after Meyers yelled at her and put his hands on her so she left. There had been past incidents where Meyers had yelled at her and she believed she was singled out.

The next day, the claimant met with the store manager, Ben Conway; the human resources manager, Joe Farley, and the assistant manager of perishables. She explained what had happened between her and Meyers. She said she would not go back to work in the kitchen with Meyers. Conway told her that there were no other spots for her to work and the employer needed to investigate the matter.

The claimant voluntarily quit employment due to Meyers' treatment of her and the store director's stating that there was no other place to work other than the kitchen.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code § 96.5-1.

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.

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 believe the claimant's testimony about Meyers' treatment of the claimant on May 5. Meyers admitted he had spoken to her in a loud voice and touched her hand to get the spatula from her.

The evidence establishes the claimant voluntarily quit employment with good cause attributable to the employer due to intolerable working conditions. An employee has the right to expect that her supervisor will not grab her hand or knock something out of her hand after yelling at her while she is trying to do her job. The store manager's insistence that she return to working in the kitchen after this incident was not reasonable.

DECISION:

The unemployment insurance decision dated May 28, 2013, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs