

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

DUSTIN M DINATALI
Claimant

APPEAL NO. 18A-UI-04358-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAMILY DOLLAR STORES OF IOWA LLC
Employer

OC: 03/18/18
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Dustin Dinatalli (claimant) appealed a representative's April 6, 2018, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Family Dollar Stores of Iowa (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 2, 2018. The claimant participated personally. The employer participated by Angela Laiser, 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 August 24, 2017, as a full-time assistant store manager. On January 19, 2018, the claimant watched a recording and saw a cashier sample a white substance from a baggie while she was working. The claimant assumed the substance was drugs and reported it to the acting store manager. On March 8, 2018, the store manager found a camera case on the store shelf that contained items that looked like a meth kit. She jokingly told the claimant she was going to dispose of it at home. She actually threw it away in the store dumpster. The district manager was notified about both instances. The claimant was upset and felt something should be done.

On March 17, 2018, the store manager met with the claimant and the other assistant store manager. She said the district manager notified the corporate office about the cashier on March 16, 2018. Corporate identified a problem with dismissal due to the time lapse between the incident and a proposed termination. The three managers at the meeting thought the cashier should be terminated immediately. The store manager said she would tell the cashier on Monday, March 19, 2018. The claimant told the store manager to do it that day. She should not wait until Monday. He said she had five minutes to make a decision and then walked out. The claimant never returned to work again. 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, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.26(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 he quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The claimant's intention to voluntarily leave work was evidenced by the claimant's actions. The claimant stopped appearing for work. The claimant argues that he quit due to intolerable or detrimental working conditions.

Iowa Admin. Code r. 871-24.25(21) 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.

Iowa Admin. Code r. 871-24.25(22) 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:

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

When an employee quits work because he is dissatisfied with the work environment or has a personality conflict with his supervisor, his leaving is without good cause attributable to the employer. The claimant assumes the first incident was related to drugs but has no proof. The claimant quit work because the employer did not follow his instructions with regard to policy concerns. 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. 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 April 6, 2018, 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/rvs