

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

LATONYA N JACKSON
Claimant

APPEAL NO. 18A-UI-02377-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NORDSTROM INC
Employer

OC: 01/28/18
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Latonya Jackson filed a timely appeal from the February 16, 2018, reference 01, decision that disqualified her for benefits and that relieved the employer of liability for benefits, based on the Benefits Bureau deputy's conclusion that Ms. Jackson voluntarily quit on January 29, 2018 without good cause attributable to the employer. After due notice was issued, a hearing was held on March 16, 2018. Ms. Jackson participated. Susen Zevin of Equifax represented the employer and presented testimony through Breanna Jacobs and Koty Frazier. Exhibits 1 and 2 were received into evidence.

ISSUE:

Whether the claimant's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Latonya Jackson was employed as a full-time Trunk Club processor at the Nordstrom, Inc. fulfillment center in Cedar Rapids. Ms. Jackson began the employment in 2014 and last performed work for the employer on January 24, 2018. Ms. Jackson's usual work hours were 2:00 p.m. to 10:00 p.m. or 12:00 a.m., Sunday through Thursday. Ms. Jackson was also required to work a similar shift on Saturday when the employer's business needs called for such work. Ms. Jackson's immediate supervisor was Assistant Manager Koty Frazier. Toward the end of the employment, Terrell Sandiford became an Assistant Manager in Ms. Jackson's area. Ms. Jackson and Mr. Sandiford had a history of interpersonal conflict.

On January 24, 2018, Ms. Jackson and Mr. Sandiford got into a verbal disagreement about whether Ms. Jackson was going to appear for work on Saturday, January 27 or risk an attendance point for being gone that day. Ms. Jackson had previously agreed with Ms. Frazier that she would work on the 27th in exchange for being off work on January 21. During the verbal disagreement with Mr. Sandiford on January 24, both parties spoke sternly to the other. At 6:00 p.m., following the disagreement with Mr. Sandiford, Ms. Jackson placed her employee ID badge on Ms. Frazier's desk and then walked off the job. Ms. Jackson called in absences due to purported illness on January 25 and 26. Ms. Jackson then ceased contact with the employer. Ms. Frazier had been away from the workplace on January 24, but returned to the workplace on January 25. Though the employer has an open-door policy, Ms. Jackson did not

attempt to contact Ms. Frazier to discuss her concerns about the interaction with Mr. Sandiford and did not contact the employer's human resources office to discuss any concerns. Ms. Jackson was scheduled for shifts on January 27, 28 and 29, but was absent from those shifts without notice to the employer. On January 29, Ms. Frazier attempted to contact Ms. Jackson, but had to settle for leaving a voice mail message in which she asked for a return call. Ms. Jackson did not respond.

On January 30, the employer's human resources staff sent a letter to Ms. Jackson to memorialize a voluntary separation from the employment. The employer's written attendance policy deemed three days of absence without notice to the employer to be job abandonment. The employer reviewed the attendance policy with Ms. Jackson at the start of the employment and provided her with a copy of the policy. Ms. Jackson received the January 30 letter in a timely manner, but did not make further contact with the employer.

REASONING AND CONCLUSIONS OF LAW:

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. 871-24.25(4) 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

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.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person

would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d 213 (Iowa 2005).

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence in the record established a voluntary quit without good cause attributable to the employer, regardless of whether one gives weight to Ms. Jackson's assertion that the quit occurred when she walked off the job on January 24, 2017 after the disagreement with the supervisor or whether one gives weight to the employer's assertion that she was absent three days without notice to the employer. Ms. Jackson's verbal dispute with the supervisor regarding whether she was going to work on an upcoming date did not rise to the level of an intolerable and/or detrimental working condition that would prompt a reasonable person to leave the employment. The disagreement with the supervisor did not provide good cause to walk off the job or quit the employment. The employer reasonably concluded that Ms. Jackson had abandoned the employment when she ceased appearing for shifts and ceased her contact with the employer.

Because Ms. Jackson voluntarily quit the employment without good cause attributable to the employer, she is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount. Ms. Jackson must meet all other eligibility requirements. The employer's account shall not be charged.

DECISION:

The February 16, 2018, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs