

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

TASHEENA J TALBERT
Claimant

APPEAL NO. 18A-UI-08100-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOLLAR TREE STORES INC
Employer

OC: 07/01/18
Claimant: Respondent (1)

Section 96.5-1 - Voluntary Quit
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Dollar Tree Stores (employer) appealed a representative's July 19, 2018, decision (reference 02) that concluded Tasheena Talbert (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for August 20, 2018. The claimant did not provide a telephone number for the hearing and, therefore, did not participate. The employer participated by Courtney Mills, Store Manager. Exhibit D-1 was received into evidence.

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 15, 2016, as a full-time merchandise assistant store manager. The duties of the merchandise assistant store manager indicated that the claimant should assist the store manager with the daily deposits and store activities. She should sometimes open and close the store.

After the store manager had a reduction in staff, the store manager thought he should close the store only once per week and the claimant should close the store six days per week. Some days she opened and closed the store. The claimant complained to the store manager about the change in her schedule but nothing changed. On April 8, 2018, the claimant quit after her shift. The district manager asked the claimant to consider her decision for one day but did not provide other workers to help at the store. The claimant quit work because the employer increased and changed her hours after a reduction in staff.

The claimant filed for unemployment insurance benefits with an effective date of July 1, 2018. She received \$663.00 in benefits after the separation from employment. The employer provided the name and number of Tilinia Davidson, the employer's representative, as the person who would participate in the fact-finding interview on July 18, 2018. The fact finder called Ms. Davidson but she was not available. The fact finder left a voice message with the fact

finder's name, number, and the employer's appeal rights. Neither the representative nor the employer responded to the message. Neither provided documents for the fact finding interview.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant voluntarily quit work with 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.

The law presumes a claimant has left employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The claimant informed the employer about the conditions she believed were intolerable or detrimental. She told her store manager that she was working too many days per week, too many closing shifts, and too many shifts where she opened and closed the store. These were not the conditions under which the claimant was hired or were listed in her job description. The Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. *Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant*, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits, provided she meets all the qualifications.

DECISION:

The representative's July 19, 2018, decision (reference 02) is affirmed. The claimant voluntarily quit with good cause attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs