

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LACEY J VANDELLO
Claimant

APPEAL NO: 13A-UI-01672-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JELD-WEN INC
Employer

OC: 01/13/13
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Lacey J. Vandello (claimant) appealed a representative's February 7, 2013 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment with Jeld-Wen, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 12, 2013. The claimant participated in the hearing. Susan Chemovsky of TALX Employer Services appeared on the employer's behalf and presented testimony from one witness, Gayle Kingery. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

OUTCOME:

Affirmed. Benefits denied.

FINDINGS OF FACT:

After a prior period of employment with the employer through a temporary employment firm, the claimant started working directly for the employer on July 16, 2012. She worked full time as a laborer/sawyer in the employer's Grinnell, Iowa window production facility. Her last day of work was January 7, 2013. She voluntarily quit on January 15, 2013.

The claimant had typically worked a first shift, either 6:00 a.m. to 2:30 p.m., or, after about November 22, 7:00 a.m. to 3:30 p.m. The claimant had been enrolled in college classes throughout her employment, although until January 2013 those classes had been night classes which did not interfere with the claimant's employment. However, the claimant's spring semester was going to require that she attend classes in Des Moines, about 40 to 45 minutes away from the workplace, from 8:00 a.m. to 2:10 p.m. on Tuesdays and Thursdays.

In about December the claimant had discussions with a group coordinator manager about the possibility of going part time during her spring semester. That manager was not in favor of the claimant going part time for paperwork reasons, but was agreeable to the claimant working on the first shift on Monday, Wednesday, and Friday, but working on the second shift on Tuesdays and Thursdays. The claimant understood that she would be able to start working this schedule as of about January 14, 2013.

The claimant left work early due to illness on January 7, 2013 and called in absences due to illness on January 8, January 9, January 10, January 11, and January 14. During one of those days the claimant learned that the production manager, who was over the group coordinator manager, was not in agreement with the plan to allow the claimant to work the second shift on days she had school, perhaps due a concern that the claimant would be late to work on the second shift if she ran into traffic or weather problems, particularly during the winter months. He also was not agreeable to the alternative that she go to a part-time status. Rather, he told her she needed to choose between working her regular first shift job, or school.

The claimant did attempt to make a further request through Kingery, the human resources associate, but Kingery told her that if the production manager had made a decision, there was nothing further Kingery could do. As a result, on January 15 the claimant called Kingery and told her that she was quitting.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993); *Wills v. Employment Appeal Board*, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (22). The claimant has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. *O'Brien v. Employment Appeal Board*, 494 N.W.2d 660 (Iowa 1993); *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (FL App. 1973). Quitting to go to school is a good personal reason, but is not a reason attributable to the employer. 871 IAC 24.25(26). While the employer had the discretion to accommodate the claimant's work schedule to allow her to also attend classes, the employer is not obligated to do so. Even though a lower manager might have given initial approval, where that amended work schedule never even went into actual effect and practice, the employer's higher management retained the authority to reverse that decision of the lower supervisor. Essentially, the claimant was placed back into the same position on January 14 as she had been when she had made her initial request to go part time, and was faced with the same decision as she would have had to make then, her job, or school, and she chose school. Benefits are denied.

DECISION:

The representative's February 7, 2013 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of February 15, 2013, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css