

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CINDYA S LOVETT
Claimant

APPEAL NO. 17A-UI-01266-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 01/08/17
Claimant: Appellant (1/R)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Cindya Lovett (claimant) appealed a representative's January 27, 2017, decision (reference 01) that concluded she was eligible to receive unemployment insurance benefits based on wages from other employers in her base period. She voluntarily quit her part-time work with Hy-Vee (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for February 24, 2017. The claimant participated personally. The employer participated by Greg Rottinghaus, Store Director.

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 May 17, 2016, as a part-time clerk. The claimant signed for receipt of the employer's handbook on May 17, 2016. The employer has a policy that requires the employee to report their absence to the employer. When the claimant was hired, she asked for permission to leave work around noon each day to administer insulin to her nine year old daughter at the daycare. The employer allowed her to do this so long as she communicated her movements to her supervisor. The supervisors talked to the store manager about the claimant's failure to give them enough lead time of her leaving the workplace. The supervisors spoke with the claimant about the problem. The claimant thought the supervisor's should know when she was leaving.

The claimant failed to properly report her absences and tardiness to the employer. He boyfriend was reporting her absences. On July 6, 2016, the employer issued her a warning. On July 14, 2016, the claimant called the store manager to say she would not be at work. The store manager talked to the claimant about her pattern of absences. The claimant said she was having problems getting to work and getting to work on time. She was also having issues getting to the daycare at noon. She told the employer she was quitting. Continued work was available had the claimant not resigned.

The claimant cares for three young children. She has other wages in her base period of employment.

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 § 96.5-1 provides:

An individual shall be disqualified for benefits:

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(28) 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:

(28) The claimant left after being reprimanded.

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 claimant's intention to voluntarily leave work was evidenced by her words and actions. She told the employer she was leaving and quit work. When an employee quits work after having been reprimanded, her leaving is without good cause attributable to the employer. The claimant left work after having been reprimanded. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. She is eligible to receive unemployment insurance benefits based on wages from other employers in her base period so long as she is qualified.

The issue of whether the claimant is able and available for work while she performs child care is remanded for determination.

DECISION:

The representative's January 27, 2017, decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. She is eligible to receive unemployment insurance benefits based on wages from other employers in her base period so long as she is qualified.

The issue of whether the claimant is able and available for work while she performs child care is remanded for determination.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs