

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBIN DALLWINTHER
Claimant

APPEAL NO: 11A-UI-12684-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**CCT ENTERPRISES LLC
FANTASTIC SAMS**
Employer

**OC: 09/12/11
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Robin Dallwinther (claimant) appealed an unemployment insurance decision dated September 9, 2011, reference 04, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Fantastic Sams (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 19, 2011. The claimant participated in the hearing. The employer participated through Owner David Schultz. 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:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a full-time stylist from May 13, 2011 through July 6, 2011, when she walked off the job in the middle of her shift. She accepted this job while she was on summer vacation from school. Two weeks after she started, though, the claimant called the owner and told him that she was going to quit. She thought the store was being run very unprofessionally. Her numbers were good and the owner wanted her to stay so he tried to think of different options that might work for her.

The owner mentioned her working in Mankato, Minnesota, since that store was not running well but that did not work out. The owner next mentioned the claimant working with three other stores in southern Minnesota and traveling between them, but that also was not an option. The claimant was finally placed in a directional educator position where she was supposed to work with the manager and help teach the manager certain business aspects.

The claimant was still going to work as a stylist, but she was given an increase in pay for the additional duties of working with the manager. Evidently, her co-workers were not as excited about the new position as the claimant was, since she had been employed there less than a month and

treated her poorly as a result. The claimant said that the manager cut her hours and her property was moved to the back. She texted the owner a message on July 6, 2011, which stated that it was not going to work out, as she felt like her hands were tied. She thanked him for trying and said she was leaving. The owner said he would talk to the claimant later that afternoon, since her shift was not over until 5:00 p.m. When he arrived at the store, the manager told him the claimant had removed her property and left. The owner saw no point in calling her after that, since the claimant had made her decision. Continuing work was available.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980) and *Peck v. Employment Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit by texting the employer a message on July 6, 2011 telling him it was not going to work out and thanking him. She carried out her intent to quit by taking her personal property and leaving the store on July 6, 2011.

The claimant acknowledges she did remove her property and left the store before her shift was over but contends she did not intend to quit. She waited for the employer to call her, but he never did and she did not call him again. The claimant believes she was fired, since she was called three weeks later for an exit interview. Where an individual mistakenly believes that she is discharged and discontinues coming to work (but was never told he was discharged), the separation is a voluntary quit without cause attributable to the employer. *LaGrange v. Iowa Department of Job Service*, (Unpublished Iowa Appeals 1984).

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated September 9, 2011, reference 04, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw