

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHEILA DERRINGER
Claimant

APPEAL NO: 07A-UI-07706-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOLGENCORP INC
Employer

OC: 07/15/07 R: 02
Claimant: Respondent (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Dolgencorp, Inc. (employer) appealed an unemployment insurance decision dated August 1, 2007, reference 01, which held that Sheila Derringer (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 28, 2007. The claimant participated in the hearing. The employer participated through T. J. Heller, District Manager. 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 considered all of the evidence in the record, finds that: The claimant was employed from March 9, 2004 through April 19, 2007 when she voluntarily quit her employment. She was hired as a part-time cashier and six months later went to a full-time third key position. The claimant did not care for the manager because the manager "screamed" in her "face" and yelled at her. She did not want to spend any more time with the manager than she had to so she opted to step down into a part-time sales associate position. The claimant testified she waited to step down until after her anniversary date because she wanted to take her two weeks' vacation. However, once the claimant stepped down, the employer refused to give her vacation because it is "granted but not earned" and part-time associates do not have vacation. The claimant was angry about it so did not report to work that day. The next day on April 19, 2007 she had a migraine so went to the doctor and obtained a medical excuse. The claimant took that excuse to the employer prior to her shift and her manager said, "Well, you might as well not come in." The claimant assumed that meant she was fired and never returned to work. She never contacted anyone else in management to ask about her employment status.

The claimant filed a claim for unemployment insurance benefits effective July 15, 2007 but has not received benefits after the separation from employment.

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 section 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 and acted to carry it out by failing to call or return to work after April 19, 2007. She stopped reporting to work because she assumed she had been fired but had not been told she was fired; her manager said she might as well not come in which could have simply meant the day for which she had the medical excuse. Where an individual mistakenly believes that she is discharged and discontinues coming to work (but was never told she 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 section 96.6-2. She has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated August 1, 2007, reference 01, is reversed. 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. There is no overpayment as a result of this claim.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs