

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

**JULIE G CLINE
1016 CENTRAL AV
HAWARDEN IA 51023-1813**

APPEAL NO. 09A-UI-17555-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**DOLGENCORP LLC
DOLLAR GENERAL % TALX UCM SVCS
PO BOX 283
ST LOUIS MO 63166-0283**

APPEAL RIGHTS:

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to:

***Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319***

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

The name, address and social security number of the claimant.

A reference to the decision from which the appeal is taken.

That an appeal from such decision is being made and such appeal is signed.

The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JULIE G CLINE
Claimant

APPEAL NO. 09A-UI-17555-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOLGENCORP LLC
Employer

OC: 11/13/09
Claimant: Respondent (2R)

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

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated November 13, 2009, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on December 31, 2009. Claimant participated. Employer participated by Rhonda Snider, assistant manager. The record consists of the testimony of Julie Cline; the testimony of Donald Cline; the testimony of Rhonda Snider; and Claimant's Exhibits A-D.

ISSUE:

Whether the claimant left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer owns and operates Dollar General Stores. The claimant worked at the store in Hawarden, Iowa. She started in June 2009 and at the time of her voluntary quit, she held the position of third key or lead associate. The claimant quit her job on October 24, 2009. She informed her supervisor, Rhonda Snider, that she "had had enough."

The claimant felt that during the week that preceded her termination Ms. Snider had been moody and grumpy. The store manager had been replaced and Ms. Snider was acting manager. Ms. Snider did not realize that the claimant, who was on light duty, was restricted to 40 hours per week. The claimant did not know this either and as a result, the claimant worked 54 ½ hours. The claimant felt she was being blamed for working too many hours.

Another employee named Shirley also quit on October 24, 2009. Shirley had gone to Rhonda and told Rhonda that she (Shirley) was quitting because of the "flack" she was getting from Julie. Julie did not know that Shirley had quit because of her and did not know why Shirley did not come to work. Work was available for the claimant had she not decided to quit her job.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

871 IAC 24.25(21), (22) 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:

(21) The claimant left because of dissatisfaction with the work environment.

(22) The claimant left because of a personality conflict with the supervisor.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence in this case established that it was the claimant who initiated the separation of employment. She intended to sever the employment relationship and did so by quitting her job on October 24, 2009. Her reason for quitting was "harassment" from Rhonda. The claimant believed that Rhonda blamed her things such as the claimant working too many hours while on light duty and for Shirley quitting her job. The claimant did not like Rhonda's moodiness and grumpiness.

Iowa law states that a claimant shall be presumed to have quit his or her job without good cause attributable to the employer if the claimant left because of a personality conflict with the supervisor. The claimant did not like Rhonda and in particular felt that Rhonda was moody and grumpy and blamed the claimant for things that went wrong. Although the claimant views Rhonda's behavior as "harassment", the evidence showed that the claimant did not like Rhonda's management style. Rhonda may have been less than an ideal manager, but her actions toward the claimant are not harassment. Her moodiness may have been due in large part to the fact that the manager was no longer there and she had been named acting manager. Long hours were being put in by store personnel. The claimant simply did not like working for Rhonda.

The claimant may have had good personal reasons for quitting her job, but her reasons are not good cause attributable to the employer. Benefits are denied.

The next issue is overpayment of benefits. Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.
 - a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.
 - b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The issue of overpayment of benefits is remanded to the claims section for further determination.

DECISION:

The decision of the representative dated November 13, 2009, reference 01, is reversed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible. The issue of overpayment of benefits is remanded to the claims section for further determination.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs