

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LUELLA A JUNKO
Claimant

APPEAL NO. 11A-UI-03871-N

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAST MART LLC
Employer

OC: 01/09/11
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's decision dated March 23, 2011, reference 01, which denied unemployment insurance benefits. After due notice was issued, a hearing was held in Decorah, Iowa, on June 29, 2011. The claimant, Luella Junko, participated personally. The employer participated by Mr. Kyle Fencil, company president.

ISSUE:

At issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Luella Junko was employed by Fast Mart LLC from December 2007, when the company was purchased by Mr. Fencil, until January 11, 2011, when she voluntarily left employment. Ms. Junko worked as a part-time convenience store clerk and was paid by the hour. Her immediate supervisor was Kyle Fencil.

On January 11, 2011, Mr. Junko was issued a temporary disciplinary suspension for what the employer considered to be the claimant's unwillingness to accept responsibility for a cash register shortage and what the employer considered to be insubordinate statements blaming the company owner for the shortage. Ms. Junko was sent home for the day and instructed to call the company owner when she was willing to discuss the matter and return to work.

The employer decided to issue the claimant a temporary disciplinary suspension because of repetitive cash register errors by Ms. Junko and what the employer considered to be her unwillingness to assist in correcting the shortages. Mr. Fencil had spoken to the claimant in the past about the shortages and had warned the claimant that the source of the shortages needed to be determined.

Ms. Junko felt that she was not at fault in the most recent ten-dollar shortage and believed that errors on the part of the company owner in counting the money may have been responsible for the shortages. Ms. Junko also believed that because her daughter had previously owned the facility, the new owner, Mr. Fencil, may have harbored ill will toward her. The claimant therefore did not respond by calling her employer as directed to discuss the most recent shortage.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes good cause attributable to the employer for quitting employment. It does not.

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.

In this unusual case, the evidence shows that Ms. Junko was temporarily issued a disciplinary suspension on January 11, 2011, when the employer reasonably felt that the claimant was not being responsive to his questioning about the source of a cash shortage. The claimant was instructed to temporarily go home and to re-call the employer when she was willing to discuss the shortage. Ms. Junko understood the instructions but did not return the employer's call in an effort to remain employed.

The evidence in the record establishes that Mr. Fencel was reasonable in his inquiry and that the inquiry was work-related. The company owner had previously informed the claimant that the source of the shortages needed to be determined and the employer believed that the claimant was not being responsive to his questions on January 11, 2011. The claimant was therefore temporarily suspended. The claimant was instructed to call the employer when she was willing to discuss the most recent shortages. However, the claimant elected not to do so.

The question before the administrative law judge is not whether Ms. Junko can leave employment for this reason but whether her leaving was for good cause attributable to the employer. While the claimant's reasons for leaving were undoubtedly good from her personal viewpoint, the administrative law judge concludes, based upon the totality of the hearing record, the claimant's reasons were not good-cause reasons attributable to the employer. The employer's inquiry was reasonable and work-related. The claimant chose not to respond and re-call the employer as directed to continue her employment. The claimant quit her employment without good cause attributable to the employer. Unemployment insurance benefits are withheld.

DECISION:

The representative's decision dated March 23, 2011, reference 01, is affirmed. The claimant quit employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until 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.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw