

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TASHA L BRIDGES
Claimant

APPEAL NO. 13A-UI-12564-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALDI INC
Employer

OC: 09/29/13
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated November 4, 2013, reference 01, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a hearing was held on December 3, 2013, by telephone conference call. The claimant participated personally. Brandon Bridges was a witness for the claimant. The employer participated through Ben Lawrence, District Manager. The record consists of the testimony of Tasha Bridges; the testimony of Brandon Bridges; and the testimony of Ben Lawrence.

ISSUE:

Whether the claimant voluntarily 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 is a grocery store located in Ames, Iowa. The claimant was hired as a cashier and manager in September 2012. She was a full-time employee. The claimant's last day of work was July 23, 2013. She quit her job on July 23, 2013.

The claimant quit because she was being constantly harassed by and treated unfairly by Jenesa Lindgren, the store manager during the latter part of the claimant's employment. Ms. Lindgren did a number of things that upset the claimant. On two occasions she commented on the claimant's short haircut and asked her whether she was "into other girls." When Ms. Lindgren left the store and the claimant was made acting manager, the claimant was supposed to be clocked in as a manager and receive higher pay. Ms. Lindgren would then return to the store and manually change the pay records so that the claimant did not receive the higher pay she was entitled to receive while acting as a manager. The claimant was told that she "sucked at everything" and that her attitude "sucked."

The claimant contacted Ben Lawrence, the district manager, and asked him to sit down with her and discuss the situation with Ms. Lindgren. On one occasion he told the claimant he was too busy and told her to use the chain of command. One week later the claimant called him again and said she had gone through the chain of command. He told her he was still too busy. The claimant felt that when he came to the store, he avoided her. The claimant felt that her complaints led to further retaliation because she was demoted on the manager list and her hours were cut. The claimant specifically asked Ms. Lindgren not to send her text messages at home unless it was work related. Ms. Lindgren persisted in sending text messages about personal matters and when asked not to, complained about the claimant's "sucking" attitude.

The final incident occurred when the claimant and Ms. Lindgren were "running" a freight truck. The claimant missed some bread markdowns, which led to Ms. Lindgren yelling at her and telling her that she sucked at everything. The claimant started crying. She decided to quit her job at that time.

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 24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

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 claimant is eligible for unemployment insurance benefits. Based on credible evidence from the claimant and her husband, the administrative law judge concludes that the claimant quit due to intolerable and detrimental working conditions. The issue in this case was whether the treatment by Ms. Lindgren was merely a personality conflict between her and the claimant, or whether her actions led to a hostile workplace. The administrative law judge concludes that it was the latter. Ms. Lindgren did not testify at the hearing. Mr. Lawrence agreed that asking an employee whether she was "into other girls" was totally inappropriate. He also agreed that the claimant should get manager pay when she was working as a manager. No supervisor should be allowed to use such vulgar phrases such as "sucking attitude." It was also unreasonable for Ms. Lindgren to text the claimant about personal matters when she was away from work. In short, the employer created an intolerable and detrimental work environment. The claimant quit

her job for good cause attributable to the employer. Benefits are allowed if the claimant is other eligible.

DECISION:

The decision of the representative dated November 4, 2013, reference 01, is reversed. Unemployment insurance benefits are allowed, if the claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css