

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBIN B BENDER
Claimant

APPEAL NO. 08A-UI-02393-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 02/03/08 R: 03
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Robin B. Bender (claimant) appealed a representative's March 4, 2008 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Hy-Vee, Inc. (employer) would not be charged because the claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 25, 2008. The claimant participated in the hearing with her witness, Dave Kann, her boyfriend. Tim Speir represented the employer. Heather Gearity, a manager, Kevin Hormann, the store director, and Scott Sherwood, a manager, appeared on the employer's behalf. 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:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer in March 2005. In June or July 2007, the claimant became the full-time deli manager. In addition to working for the employer, the claimant attended catering classes. The employer does not have a written policy, but does not expect employees to work at another job that competes with the employer's business.

During the course of her employment, the claimant had problems scheduling employees. Gearity thought she answered the claimant's questions when the claimant asked her questions. The claimant, however, became frustrated because when she asked questions, Gearity and other managers indicated they did not know the answer and the claimant could make a decision. When the claimant made a decision, Hormann sometimes reprimanded or talked to her about the poor decision she made. The claimant did not explain how she had asked for assistance when she did not know what to do and did not receive an answer from a supervisor.

On October 22, 2007, Hormann talked to the claimant about a conflict of interest. The claimant had complained how she could not work on a scheduled Saturday because she was catering an event with another business. Hormann told the claimant he considered this a conflict of interest and did not want the claimant to compete against the employer's catering business. The claimant did not believe the employer had the right to ask her not to work for another catering business because she was attending school to become a caterer.

Although the claimant may have been so frustrated with her job that she came home from work very upset, the claimant did not let the employer know about her frustrations. On November 16, 2007, Sherwood told the claimant that a scheduled employee had called in sick and would not be at work as scheduled. The claimant indicated that this was not right, because the employee had been out drinking the night before. The claimant became so fed up and upset about work issues, she indicated she could not take this job anymore. The claimant obtained her personal belongings and walked out. The claimant did not return to work after November 16, 2008.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment for reasons that do not qualify her to receive benefits. Iowa Code § 96.5-1. When a claimant quits, she has the burden to establish she quit her employment for reasons that qualify her to receive benefits. Iowa Code § 96.6-2.

The facts establish how frustrated the claimant was in her position as a new deli manager. The evidence does not establish that the claimant worked under intolerable or detrimental working conditions. Even though the claimant was very upset when she came after work, the claimant has not met the requirements of 871 IAC 24.26(6)b that allows claimants to receive benefits if continue employment would be hazardous to their health.

The claimant established compelling personal reasons for quitting. These reasons do not, however, qualify the claimant to receive unemployment insurance benefits. As of February 3, 2008, the claimant is not qualified to receive benefits.

DECISION:

The representative's March 4, 2008 decision (reference 01) is affirmed. The claimant voluntarily quit her employment for personal reasons that do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of February 3, 2008. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw