

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

MELANIE L KLINGENSMITH
Claimant

APPEAL NO. 18A-UI-01699-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 12/17/17
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's unemployment insurance decision dated January 23, 2018, reference 01, which denied unemployment insurance benefits, finding that the claimant voluntarily quit work on October 24, 2017 after being reprimanded by the employer. After due notice was provided, a telephone conference hearing was held on February 28, 2018. Claimant participated. Participating as witnesses for the employer were Ms. Sarah Wright, Area Director; and Ms. Chris Hendrix, Store Manager.

ISSUE:

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

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Melanie Klingensmith was employed by Casey's Marketing Company from July 29, 2016 until October 24, 2017, when her resignation from employment became effective. Ms. Klingensmith was employed as a full-time donut and breakfast preparation crew member working 3:00 a.m. to 10:00 a.m. and was paid by the hour. Her immediate supervisor was the store manager, Ms. Chris Hendrix.

Ms. Klingensmith tendered her two week notice of intention to quit on approximately October 14, 2017, the day following an incident that had taken place with Ms. Hendrix, the store manager. On that morning, the store manager had observed Ms. Klingensmith was in the process of cleaning pans and metal racks, but not following the required three-step wash, rinse, and disinfect steps. Ms. Hendrix instructed the claimant to use the three-step procedure using the three sinks that were available in the kitchen and described it as a new and easier way for the claimant to do the dishes. The claimant stated that she would follow the new procedure if she "didn't forget". Her manager confirmed that the dishes must be done the correct three-step way.

Approximately two hours later Ms. Hendrix was passing through the kitchen area and noted that the required process still was not being followed. In an effort to allow the claimant to save face, the store manager first asked if the claimant "forgot" or whether she had "blatantly ignored what

she was told to do?” Ms. Klingensmith responded by becoming unreasonably angry, slapping her hands into the sink full of soapy water, causing water to be slashed from the sink, as she angrily responded to the manager’s inquiries. Ms. Hendrix made a comment about the claimant’s lack of maturity the claimant was showing. As Ms. Hendrix left the kitchen area, the claimant stated she was quitting the employment.

Ms. Hendrix reported the matter to her district manager. Ms. Wright, the district manager, reviewed the video tapes of the incident and concluded that the depictions on the security tape showed the claimant acting in what appeared to be a very upset and argumentative way and Ms. Hendrix to be acting in a more natural way without appearing to be agitated or confrontational. Ms. Hendrix did not write the claimant up for the incident because the claimant had indicated that she was quitting employment.

The following day, the claimant tendered her resignation letter to be effective October 24, 2017. The claimant did not cite the incident with her manager as the reason for leaving and referenced only the possibility of new employment as a reason for leaving during the two week notice period she had provided the employer. Ms. Klingensmith made no report or complaint to Ms. Wright, the area supervisor, or to the district supervisor, although their telephone numbers were posted and available to the claimant. Ms. Klingensmith also did not lodge any complaint up the chain of command, although company policy allows employees to go around their immediate supervisor and the chain of command, if necessary.

It is Ms. Klingensmith’s position that she tendered her resignation and left employment because she had been unreasonably “accosted and verbally assaulted” by Ms. Hendrix “screaming” at her about the way she was washing dishes on the morning in question and because of general dissatisfaction with the way Ms. Hendrix was supervising her and other employees. Ms. Klingensmith asserts she did not go up the chain of command because she feared retribution if she did so from Ms. Wright, the district manager.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that the claimant left employment with good cause attributable to the employer. It does not.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.2(1)g provides:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

(1) Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

g. No continued claim for benefits shall be allowed until the individual claiming benefits has completed a voice response continued claim or claimed benefits as otherwise directed by the department. The weekly voice response continued claim shall be transmitted not earlier than noon of the Saturday of the weekly reporting period and, unless reasonable cause can be shown for the delay, not later than close of business on the Friday following the weekly reporting period.

Iowa Admin. Code r. 871-24.25(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:

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

Iowa Admin. Code r. 871-24.26(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.

In the case at hand, the testimony is highly disputed. The administrative law judge, having listened to the testimony of the witnesses, having questioned them, having considered the matter, concludes that weight of the evidence is established in favor of the employer. The evidence establishes that Ms. Hendrix was exercising reasonable and appropriate supervisory authority when she directed the claimant to follow a prescribed washing, rinsing, and disinfecting three-step process while doing company dishes and that when she later observed that the claimant was not following her directive, she questioned Ms. Klingensmith in a way that would be minimally confrontational by asking the claimant if she "forgot" the new way of washing the dishes. Ms. Klingensmith testified that she store manager had never engaged in screaming at her before and a review of the surveillance tape by the area director did not reflect that Ms. Hendrix appeared to be angry during the encounter, but that it was the claimant who became unreasonably angry slapping water and flailing her arms as the store manager left the area. The administrative law judge also notes that although Ms. Klingensmith readily contacted the area director to complain about her portion of a contest winnings, she did not send a report to complain, although she asserts the manager had acted inappropriately. She did not bring the allegations to upper management either at the time or during the two weeks of her notice period. For the above stated reasons, the administrative law judge concludes that the claimant has not sustained her burden of proof to establish that she left employment due to intolerable or detrimental working conditions. The claimant has not established that the working conditions were intolerable or detrimental, or that a reasonable person would have left employment under the attendant circumstances of this case.

While there is no doubt that Ms. Klingensmith's reasons for leaving were good-cause reasons from her personal viewpoint, they were not good-cause reasons attributable to the employer, but due to Ms. Klingensmith's personal disdain when she was questioned by her store manager as to why she was not following required procedures. Accordingly, benefits are denied.

DECISION:

The representative's unemployment insurance decision dated January 22, 2018, reference 01, is affirmed. Claimant left 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 and is otherwise eligible.

Terry P. Nice
Administrative Law Judge

Decision Dated and Mailed

rvs/rvs