

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LISA A HARMON**  
Claimant

**APPEAL NO: 12A-UI-07395-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HY-VEE INC**  
Employer

**OC: 05/13/12**  
**Claimant: Respondent (2/R)**

Iowa Code § 96.5(1) – Voluntary Quit

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's June 18, 2012 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because her employment separation was for nondisqualifying reasons. The claimant participated in the hearing. Bruce Burgess, a Corporate Cost Control representative, appeared on the employer's behalf. Jeff Bortell, the store director, and Ryan Parker, the manager of perishables, testified on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

**ISSUE:**

Did the claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits, or did the employer discharge her for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in August 1998. She worked as a full time clerk and breakfast cook.

On May 5, the kitchen manager asked Parker to come to the deli area because the claimant refused to make a BLT sandwich for a customer. The claimant had not refused to make the customer the sandwich; instead this order or ticket had not been given to the claimant. The claimant had not known the customer was waiting for his order.

When Parker talked to the claimant, the claimant indicated that the kitchen did not cook lunch during breakfast hours. When Parker questioned the claimant about whether she refused to cook an order for a customer, she became upset. Parker told the claimant that she needed to focus on what she could do for the department and not worry about what other employees did or did not do. The claimant became disgusted, picked up her purse and walked off the job two hours early. She was scheduled to work at 5:30 p.m. on May 7, but did not call or report to work.

The claimant called Bortell on May 10 to see if she could have her job back. Bortell told her that her position had been replaced with someone from another store on May 8. The claimant establishes a claim for benefits during the week of May 13, 2012.

#### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(1), (2)a. The facts indicate the claimant left work early on May 5 with the intention of quitting. This is based on the fact that if she was upset or disgusted with Parker, she could have talked to Bortell to resolve the situation immediately. Also, the claimant failed to report to work as scheduled on May 7 even though the employer expected her and she was scheduled to work. Finally, when she called Bortell on May 10, she asked if she could have her job back. All these factors support the conclusion that she was so upset and disgusted with Parker on May 5 that she quit when she walked off the job.

When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6(2). The law presumes a claimant quits without good cause when she leaves employment because of conflict with a supervisor or after receiving a reprimand. 871 IAC 24.25(21) & (28).

It is understandable why the claimant became upset when the employer questioned her honesty when she said she had not refused to cook a customer's order. When she was emotionally upset, she left work on May 5 instead of going to Bortell to resolve issues. If the claimant had contacted the employer the next day May 6, issues she had with Parker or anyone else could have potentially resolved then. Instead, she waited until May 10 to ask Bortell if she could have job back.

Even though the claimant had personal reasons for walking out and quitting on May 5, she quit for reasons that do not qualify her to receive benefits. As of May 13, 2012, the claimant is not qualified to receive benefits.

An issue of overpayment or whether the claimant is eligible for a waiver of any overpayment of benefits she may have received since May 13 will be remanded to the Claims Section to determine.

**DECISION:**

The representative's June 18, 2012 determination (reference 01) is reversed. The claimant voluntarily quit her employment when she left work early on May 5 and did not contact the employer until May 10 to ask for her job back. The claimant established personal reasons for quitting, but these reasons do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of May 13, 2012. 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. The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is **Remanded** to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs