

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PATRICIA K WILHELM
Claimant

APPEAL NO. 07A-UI-04344-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALS CORNER OIL CO
Employer

**OC: 04/08/07 R: 01
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated April 23, 2007, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on May 16, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. Barb Stankey participated in the hearing on behalf of the employer with a witness, Cindy Tiefenthaler.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked full time for the employer as a convenience store cashier from March 25, 2005, to April 4, 2007. Barb Stankey is the store manager.

On March 9, 2007, the claimant's next door neighbor was arrested for assaulting the claimant's minor daughter. The neighbor was a customer of the store and the arrest was known in the community. Her daughter, however, was not identified as the victim of the crime.

After March 9, 2007, the claimant became upset about some employees of the store talking about the arrest and suggesting that the allegations against the neighbor were false. An employee of the store who is a friend of the claimant posted notes in the store telling employees not to jump to conclusions and stop gossiping about things about which they did not have all the facts.

On March 12, the claimant confided in Stankey that her daughter was the victim of the crime and that she was upset about the talk in the store. Stankey acted responsibly by telling employees that they were not to talk about the crime in the store. She did this without disclosing to anyone that the claimant's daughter was involved. Employees later learned that the claimant's daughter was involved but not through anything Stankey said.

On March 13, the neighbor came into the store while Stankey was working and made a threat about the claimant's family. Stankey reported the threat to the claimant and the police. The claimant believed that employees were still talking about the assault and complained again about being uncomfortable with the discussion. Stankey again informed employees that they were not to talk about the situation in the store. The claimant did not complain again about employees making comments in the store.

On March 21, the claimant was in the store while she was off duty and said she would help out at the cash register while two other employees did inventory. The claimant became upset when one of the employees commented that the claimant was trying to take over everyone's job. She had heard secondhand that this same employee had been saying that the neighbor was innocent and believed that the comment displayed hostility toward the claimant.

After hearing the comment from the employee, the claimant submitted her two-week notice that she was quitting to Stankey. When she put in her two-week notice, she only mentioned the comment that the employee had made about the claimant taking over everyone's job as the problem. The claimant intended to quit effective April 4, 2007. The claimant and Stankey later talked and came to an understanding that the claimant would work until Stankey found a replacement.

On March 25, the claimant was working with an employee named Amy. The claimant and Amy had conflicts in the past regarding various matters. At some point during the shift, a customer had come in and asked the claimant what she knew about the criminal situation involving her neighbor. The claimant had been instructed by the police not to talk about the situation. She told the customer that she did not know anything about the matter. The claimant heard Amy say under her breath, "liar." There was friction between the two employees for the rest of the shift. At the end of the shift, the claimant wrote a note for Stankey stating that Amy had gotten what she wanted and that the claimant was not going to work beyond April 4, 2007. The claimant did not mention the comment that Amy made.

The claimant quit employment because she was under stress due to the incident involving her neighbor and her daughter and the continued conversations about the incident. She believed that employees had taken sides against her because of the situation. She did not believe Stankey did enough to correct the situation.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer.

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 24.25(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. While the rules (817 IAC 24.26(4)) provide that a claimant who quits employment due to intolerable working conditions is qualified to receive benefits, I do not believe that the evidence supports such a conclusion in this case.

In order for a claimant to establish good cause attributable to the employer, a claimant must give the employer the opportunity to address the conditions the claimant considers intolerable. If the employer fails to take corrective action, the quit can be considered attributable to the employer. In this case, Stankey acted responsibly and told the employees to stop talking about the situation involving the assault. When the claimant put in her two weeks' notice on March 21, she only mentioned that the employee had said that the claimant was trying to take over everyone's job. When she reiterated that she was quitting on March 25, she only mentioned the conflict she had with Amy and did not mention that Amy had called her a liar. Good cause attributable to the employer for leaving employment has not been established in this case.

DECISION:

The unemployment insurance decision dated April 23, 2007, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs