IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

Appeal Number: 06A-UI-03512-SWT
OC: 05/29/05   R: 03
Claimant: Respondent (4)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the ***Employment Appeal Board, 4th Floor— Lucas Building, Des Moines, Iowa 50319***.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

KELLY L RADER
APT 11
608 S WALNUT
MONTICELLO IA 52310

STATE CLEARLY
1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

FAREWAY STORES INC
2300 E 8TH
BOONE IA 50036

_____
(Administrative Law Judge)

_____
(Decision Dated & Mailed)

Section 96.5-1 - Voluntary Quit
871 IAC 24.27 - Voluntary Quit of Part-time Job

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated March 16, 2006, reference 10, that concluded the claimant voluntarily quit employment with good cause attributable to the employer. A telephone hearing was held on April 17, 2006. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Kim Garland participated in the hearing on behalf of the employer with a witness, Bruce Smith. Exhibit One was admitted into evidence at the hearing.

FINDINGS OF FACT:

The claimant worked part time for the employer from January 9, 2006, to February 4, 2006. On February 3, the claimant reported to work 30 minutes late. The assistant manager issued a written reprimand to the claimant for reporting late for work. Later during the shift, the claimant

informed a coworker that she believed that the assistant manager had mistreated her and she was going to teach him a lesson by not reporting to work the next day. This conversation was reported to the assistant manager.

On February 4, the claimant was ten minutes late for work without any excuse or prior notice. As a result of the claimant's reporting to work late two days in a row and threatening to teach the assistant manager a lesson, the assistant manager issued a written reprimand to the claimant. He also took her off the schedule for the next week and told her that she would have to talk to the manager who was on vacation at the time before she could return to work.

On February 13, the claimant spoke with the manager. The manager asked the claimant to come in for a meeting with him. The claimant told him that she was busy until February 17. A meeting was scheduled for 2:00 p.m. on February 17. The manager planned to discuss the claimant's tardiness and the comments she had made. He had not made a decision to discharge the claimant and wanted to hear her side.

The claimant never reported for the meeting and had no further contact with anyone in management with the employer. She was considered to have voluntarily quit employment by abandoning her job.

The claimant filed a new claim for unemployment insurance benefits with an effective date of May 29, 2005. The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim.

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(33) 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:

(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

The evidence establishes that the claimant left employment after being reprimanded rather than meet with the store manager about her employment situation. Good cause for quitting attributable to the employer has not been shown in this case. The job, however, was part time, and the claim is based on wages from other employers. Pursuant to the rule, the employer's account will not be subject to charge for benefits paid to the claimant on this claim or any future claim.

DECISION:

The unemployment insurance decision dated March 16, 2006, reference 10, is modified in favor of the employer. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible. The employer's account will not be subject to charge for benefits paid to the claimant.

saw/kkf