

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MISTY J MYHRE
Claimant

APPEAL NO. 09A-UI-18823-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

K MART CORP
Employer

OC: 10/25/09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated December 7, 2009, reference 03, which held claimant not eligible to receive unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on January 27, 2010. The claimant participated personally. The employer participated by Ms. Kitty Friders, Human Resource Representative.

ISSUE:

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

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Misty Myhre was employed by K Mart Corporation from October 28, 2008 until August 18, 2009 when she voluntarily quit employment. Ms. Myhre worked as a part-time cashier averaging approximately 35 hours per week. Her immediate supervisor was Kitty Friders.

Ms. Myhre quit her part-time job with K Mart Corporation in order to further her educational pursuits. Ms. Myhre had chosen to enter into an accelerated learning program which required the claimant to attend classes both in the morning from 8:00 a.m. until 12:00 p.m. and evenings from 5:30 p.m. until 9:00 p.m. Ms. Myhre requested that Ms. Friders schedule the claimant to work at times that did not conflict with her school schedule.

The employer attempted to accommodate Ms. Myhre's request as well as the requests of other employees who had preferences or needs for specific working times. The employer attempted to the best of its ability to schedule Ms. Myhre off work during times that she had classes. Due to changes in Ms. Myhre's class schedule and times, the employer was not always able to schedule claimant off work at the times that the claimant desired. On two occasions the claimant had found a substitute worker.

On August 18, 2009, the claimant indicated that she was required to attend night classes that evening. Although the employer was willing to allow Ms. Myhre to work a short work shift to accommodate the claimant's needs, Ms. Myhre indicated that she did not have a babysitter for that day's work. The employer had no further contact from the claimant and concluded the claimant had chosen to leave employment.

REASONING AND CONCLUSIONS OF LAW:

The question for the administrative law judge is whether the evidence in the record establishes good cause for leaving this employment attributable to the employer. It does not.

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.

In this case when Ms. Myhre was hired by K Mart Corporation she was not a student. Subsequently the claimant began attending classes and the employer attempted to the best of its ability to arrange the claimant's part-time working hours around her class schedule. When Ms. Myhre entered into an accelerated learning program, she was required to attend classes both mornings and evenings and it appears that at times made requests for schedule changes on the day itself.

In this case the evidence establishes the employer was attempting to accommodate Ms. Myhre's needs by changing schedules or allowing the claimant to work an altered work shift. The claimant nevertheless chose to leave employment. While the claimant's reasons for leaving may have been good from a personal viewpoint, they do not constitute good cause attributable to the employer. There was no promise at the time of hire that the claimant could set her own schedule as needed. Benefits are withheld.

DECISION:

The representative's decision dated December 7, 2009, reference 03, is affirmed. The 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, provided she is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs