

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRIS BURCH
Claimant

APPEAL NO: 11A-UI-07082-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE BON-TON DEPARTMENT STORES INC
Employer

**OC: 05-01-11
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 24, 2011, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on June 22, 2011. The claimant participated in the hearing. Jennifer McDermott, Store Manager, participated in the hearing on behalf of the employer.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time fragrance manager for Younkers from December 27, 2007 to April 5, 2011. The store manager and human resources manager called the claimant to the office April 5, 2011, for a “customer service oriented conversation.” It had no intention of issuing the claimant a warning or terminating the claimant’s employment. The claimant became upset during the conversation and said, “I quit.” She left the office and was escorted out the employee entrance after a brief scene in the cosmetics department where she was crying and raising her voice. After the store manager and human resources manager approached her on the floor she asked to rescind her resignation but the employer denied her request and told her it accepted her resignation. The claimant was upset about previous warnings and incidents, some dating to 2009, and thought she was going to receive a written warning although the employer never told her that was the case.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

Iowa Code § 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 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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6-2. "Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (Florida App. 1973). In Langley v EAB, 490 N.W.2d 300 (Iowa App. 1992) the Court of Appeals determined a separation was a quit when a claimant gave notice of resignation and later attempted to withdraw it but the employer refused. In the case herein the claimant was upset about what she believed was a reprimand but was actually a coaching session without any accompanying disciplinary action. While previous warnings were "stuck in (her) throat," she was not being disciplined on this occasion but quit before knowing that fact. The employer did not plan on issuing the claimant a warning of any kind and had no intention of terminating her employment but the claimant was too upset to sit and listen to the coaching and when the claimant tried to rescind her resignation the employer would not allow her to do so because it felt she was disrespectful and was not coachable. The claimant believed previous warnings were unfair but has not demonstrated that leaving because of a "service oriented conversation" rose to the level of intolerable or detrimental working conditions as required by Iowa law. Therefore, benefits must be denied.

DECISION:

The May 24, 2011, reference 01, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs