

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SUANN G STAPLETON
Claimant

APPEAL NO. 08A-UI-10414-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**PARCO
WENDY'S OLD FASHIONED HAMBURGERS**
Employer

**OC: 09/21/08 R: 03
Claimant: Respondent (2)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Wendy's Old Fashioned Hamburgers (employer) appealed a representative's October 30, 2008 decision (reference 01) that concluded Suann Stapleton (claimant) was discharged and there was no evidence of willful or deliberate misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 20, 2007. The claimant did not provide a telephone number for the hearing and, therefore, did not participate. The employer participated by Lou Wirtz, General Manager.

ISSUE:

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on January 9, 2008, as a full-time crew member. On September 19, 2008, the general manager issued the claimant a verbal reprimand for cussing in front of customers and complaining to co-workers about management instead of addressing complaints to the general manager. The employer told the claimant that it would love to have the claimant at work but she could not act like that. The claimant said she hated her job, walked out and never returned to work. Continued work was available had the claimant not resigned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work 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(28) 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:

(28) The claimant left after being reprimanded.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by her words and actions. She told the employer that she hated her job and walked off the job. When an employee quits work after having been reprimanded, her leaving is without good cause attributable to the employer. The claimant left work after having been reprimanded. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's October 30, 2008 decision (reference 01) is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css