

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LORI L LOUCK
Claimant

APPEAL NO. 07A-UI-00601-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TOM'S MARKET & MEATS INC
Employer

**OC: 04/30/06 R: 04
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated January 8, 2007, reference 04, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 15, 2007. Claimant participated. Employer participated by Maria Reif, Deli Manage, Mike Campbell, Store Manager and Rebecca Shockley, Store Manager. Exhibit One was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on December 6, 2006. Claimant was called into a meeting on the last day of work and told that performance must improve. Employer also indicated that this business was not for everyone and to look for other work if they could not better perform. Claimant accepted the statement as a discharge. Claimant was told that the door was open to further conversations over the issue. Claimant did not confer with the employer again, accepting the statement as a discharge. Employer did not use the words: discharged, fired or terminated from employment. Claimant was not discharged on December 6, 2006.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of a reprimand. Claimant had no basis to conclude she was being let go. The statement to look for other work if not cut out for the job is not tantamount to discharge. Claimant quit for purely personal reasons surrounding dissatisfaction with the work environment and a reprimand. Benefits withheld.

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), (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:

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

(28) The claimant left after being reprimanded.

DECISION:

The decision of the representative dated January 8, 2007, reference 04, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs