

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**DIANA L ROUSH**  
Claimant

**EXPRESS LANE INC**  
Employer

**APPEAL 19A-UI-08633-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/13/19**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant/appellant, Diana L. Roush, filed an appeal from the October 28, 2019 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on November 26, 2019. The claimant participated. The employer registered Sue Dravis to participate in the hearing, but she was unavailable when called and did not participate. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntarily quit the 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 full-time as a cashier and was separated from employment on September 2, 2019, when she quit the employment. The claimant offered a two week notice and intended to work through September 16, 2019. However, she was not permitted to work out her resignation period.

The claimant quit the employment after being yelled at by her manager in front of co-workers and in earshot of customers. The claimant was accused by her manager of causing another employee to quit. Her manager also yelled at her, stating she needed to “watch how you talk to the girls”. Prior to quitting, the claimant had contacted human resources about concerns with the manager and being yelled at, but issues were not addressed.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant quit the employment with good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

The claimant has the burden of proof to establish she quit with good cause attributable to the employer. 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. See 871 IAC 24.25. "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (Fla. App. 1973).

Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code section 96.2. *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993)(citing *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986) "[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.*

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. In this case, the undisputed evidence is the claimant quit after being repeatedly yelled at by her manager and was accused of causing an employee to quit.

Arguably, if the claimant had engaged in the same conduct, she would have been subject to discipline by the employer. If management wishes to be treated with respect, it must enforce respectful treatment amongst coworkers and supervisors and apply those expectations consistently throughout the chain of command.

While a claimant does not have to specifically indicate or announce an intention to quit if her concerns are not addressed by the employer, for a reason for a quit to be "attributable to the employer," a claimant faced with working conditions that she considers intolerable, unlawful or unsafe must normally take the reasonable step of notifying the employer about the unacceptable condition in order to give the employer reasonable opportunity to address her concerns. *Hy-Vee Inc. v. Employment Appeal Board*, 710 N.W.2d 1 (Iowa 2005); *Swanson v. Employment Appeal Board*, 554 N.W.2d 294 (Iowa 1996); *Cobb v. Employment Appeal Board*, 506 N.W.2d 445 (Iowa 1993). If the employer subsequently fails to take effective action to address or resolve the problem, it then has made the cause for quitting "attributable to the

employer.” The claimant in this case had previously contacted human resources about her manager before she quit without resolution. The administrative law judge is persuaded a reasonable person would quit employment after being subjected to a manager repeatedly yelling at them, especially in the presence of others. The claimant’s manager created detrimental conditions which caused the claimant to quit the employment. The claimant has established she quit for good cause reasons attributable to the employer. Benefits are allowed provided she is otherwise eligible.

**DECISION:**

The October 28, 2019 (reference 01) initial decision is reversed. The claimant quit for good cause reasons attributable to the employer. Benefits are allowed, provided she is otherwise eligible.

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Decision Dated and Mailed

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