

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TORI K WECK
Claimant

APPEAL NO: 18A-UI-09010-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

KUM & GO LC
Employer

OC: 07/22/18
Claimant: Respondent (2)

Section 96.5-1 – Voluntary Leaving
Section 96.3-7 – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The employer filed a timely appeal from the August 17, 2018, reference 02, decision that allowed benefits to the claimant. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on September 13, 2018. The claimant did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing, as required by the hearing notice. Tricia Wetien, General 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 part-time sales associate for Kum & Go from October 30, 2017 to August 13, 2018. She voluntarily left her employment by failing to attend a meeting following her suspension July 24, 2018.

The claimant received written warnings May 5 and June 25, 2018, after several conflicts with other associates and General Manager Tricia Wetien.

On July 24, 2018, the claimant told Ms. Wetien, "I don't fucking care about this fucking place. I'm sick and tired of everyone's bullshit." She asked Ms. Wetien why whenever there was a problem it was always her fault and Ms. Wetien told her she was the only employee who talked to her like that. As the claimant's shift was ending July 24, 2018, she went back to the office and said, "I don't fucking care anymore." She walked away from the office, clocked out and left the store. Ms. Wetien called the claimant later that day and informed her she was being placed on a two-week suspension for insubordination and that she wanted to meet with the claimant Monday, July 30, 2018, between 8:30 a.m. and 4:30 p.m. to discuss the suspension. The claimant did not call or show up to meet with Ms. Wetien July 30, 2018, and never contacted the employer again. The employer determined the claimant voluntarily quit her job effective July 24, 2018.

The claimant has not made a weekly claim for benefits after filing her claim and has not received any benefits to date.

The employer did not participate in the fact-finding interview.

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, 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.

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 section 96.6-2.

The claimant was suspended July 24, 2018, and instructed to return for a meeting about the situation July 30, 2018. She failed to show up for the meeting or call the employer and never contacted the employer after her suspension. The claimant's actions evince an intention to voluntarily quit her job. She has not demonstrated that her leaving was for good cause attributable to the employer as that term is defined by Iowa law. Therefore, benefits are denied.

There is no overpayment of benefits as the claimant has not made a weekly claim since her separation from this employer.

DECISION:

The August 17, 2018, reference 02, decision is reversed. 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. There is no overpayment of benefits because the claimant has not made a weekly claim since her separation from this employer.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn