

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CAROL M CALLAWAY
Claimant

PILOT TRAVEL CENTERS LLC
Employer

APPEAL 19A-UI-06917-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 08/04/19
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Carol Callaway (claimant) appealed a representative's August 20, 2019 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Pilot Travel Centers (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for September 24, 2019. The claimant participated personally. The employer provided a telephone number but could not be reached at the time of the hearing. Two messages were left for the employer.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

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 August 7, 2018, and at the end of her employment she was working as a full-time shift supervisor.

The work environment was in disarray. The flooring behind the fuel desk had deteriorated and was uneven. An employee fell, went by ambulance to the hospital, and had staples in his head. Workers did not follow instructions and were rude to customers. One subordinate, in particular, did not listen to the claimant's instructions. The claimant spoke with management but nothing was done.

On July 28, 2019, the subordinate refused the claimant's request to cook any more food for the shift, even though it was part of his job duties. The claimant cooked the necessary food. The claimant then asked him to provide assistance to a co-worker. The subordinate told the claimant he did not know how to perform the work, even though he did. The subordinate went outside for a smoke break. The claimant went outside and told the subordinate to "go the fuck home". The subordinate left.

On July 29, 2019, the employer issued the claimant a reprimand for her comment to the subordinate. The claimant worked the rest of her shift on July 29, 2019, with the subordinate. She wondered if the subordinate received any counseling for his behavior. On July 30, 2019, the claimant sent a message to her supervisor indicating she would not be at work. She said she did not know if she would be returning. On August 1, 2019, the claimant returned her keys to the employer and quit 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, 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. 871-24.25(27) 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.
- (27) The claimant left rather than perform the assigned work as instructed.

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 she was leaving and quit work. When an employee quits work because of the work environment or after having been reprimanded, her leaving is without good cause attributable to the employer. The claimant left because of her work environment and 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 August 20, 2019, decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount provided she is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs