

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JESSICA L METIER
Claimant

APPEAL NO. 07A-UI-05437-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TACO JOHNS OF IOWA
Employer

OC: 04/29/07 R: 02
Claimant: Appellant (2-R)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Jessica Metier, filed an appeal from a decision dated May 23, 2007, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on June 25, 2007. The claimant participated on her own behalf. The employer, Taco Johns, participated by Vice President of Operations Mike Lee.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Jessica Metier was employed by Taco Johns from January 13, 2004 until April 26, 2007, as a full-time manager. On April 26, 2007, she was scheduled to begin her shift at 5:00 p.m., but at 4:00 p.m. she sent a text message to the general manager's personal cell phone saying she was at the doctor's office with her daughter and would bring in a note when she was done.

The general manager, Laura Fortney, tried to call the claimant on her cell phone, but the claimant would not answer. So, the employer sent a text message around 5:30 p.m. asking her if she was done. At that time, the claimant was waiting at the pharmacy for medication and the employer replied "okay." Around 6:00 p.m. the claimant went to the drive up window in her car and dropped off the doctor's note and never asked to talk to the general manager, but drove away. Ms. Fortney called the claimant's cell phone again and gave her five minutes to call back, but then sent a text message that told her she "sucked" and that she could "deal with Brenda" from now on, and mentioned the note was for the claimant's daughter, not for her. Several other acrimonious messages went back and forth until finally Ms. Fortney wrote "fuck off."

The claimant was offered her job back on May 24, 2007, and agreed to return to work but was no-call/no-show.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant ceased coming to work after being sent a text message by the general manager to "fuck off." Although the manager was understandably irate that the claimant made no reasonable attempt to call and talk to her, and merely handed in a doctor's note through the restaurant's drive-thru window, that is insufficient cause to use this type of abusive language. It is apparent Ms. Metier was attempting to avoid actually discussing her absence with the general manager by using a private cell phone rather than the business phone and texting messages rather than calling. However, she did have a doctor's note verifying her need to be off to care for her minor child, and there is no indication of an excessive number of unexcused absences in her past. The claimant quit because of intolerable behavior by her supervisor.

The issue of whether the claimant refused an offer of work is remanded to the Claims Section for determination.

DECISION:

The representative's decision of May 23, 2007, reference 01, is reversed. Jessica Metier is qualified for benefits, provided she is otherwise eligible.

The issue of whether the claimant refused an offer of work is remanded to the Claims Section for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw