

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THERESA MIKULA
Claimant

APPEAL NO. 17A-UI-04948-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SHOE CARNIVAL INC
Employer

OC: 04/09/17
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit
Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Theresa Mikula (claimant) appealed a representative's May 4, 2017, decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Shoe Carnival (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 26, 2017. The claimant participated personally. The employer participated by Ruth Gander, General Manager.

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 November 28, 2016, as a full-time assistant store manager trainee. Her last day of work was March 30, 2017. After that, her car stalled in an intersection in Des Moines, Iowa. She had costs from the towing of her car and getting a ride home to Nevada, Iowa. On March 31, 2017, the claimant communicated with the employer that she could not afford to pay to retrieve her car from the towing company and, therefore, could not get to work in Clive, Iowa. The employer offered to drive the claimant to work. The claimant declined the offer. On April 3 and 4, 2017, the claimant properly reported her absence to the employer. On April 5, 6, and 7, 2017, the claimant did not appear for work or report her absence to the employer. The employer considered her to have quit on April 6, 2017, and communicated this to the claimant on April 8, 2017. 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 § 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.

Iowa Admin. Code r. 871-24.25(1) 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:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

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 did not have transportation to work and stopped reporting. When an employee is absent from work due to lack of transportation, her leaving is without good cause attributable to the employer. The claimant left work due to lack of transportation. 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 May 4, 2017, decision (reference 02) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs