

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KOSZETTE ZAKULA
Claimant

**DIA APPEAL NO. 21IWDUI0187
IWD APPEAL NO. 20A-UI-15176**

GENERAL NUTRITION CORPORATION
Employer

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/29/20
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)A – Wrongful Discharge

STATEMENT OF THE CASE:

Claimant Koszette Zakula filed an appeal from the October 29, 2020 (reference 01) unemployment insurance decision that denied benefits based upon her separation from employment. The Claimant and Employer General Nutrition Corporation were properly notified of the hearing. A telephone hearing was held on January 21, 2020. Claimant Koszette Zakula participated and testified. No one appeared for the Employer. Official notice was taken of the administrative file, which included the notice of telephone hearing, the transmittal form transmitting this case to DIA, the decision at issue herein, and the appeal request.

ISSUES:

Whether the separation was a layoff, discharge for misconduct, or a voluntary quit without good cause.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the Administrative Law Judge finds as set forth below:

Claimant Koszette Zakula, age 19, began working as a sales associate for General Nutrition Corporation's store at the North Park Mall in Davenport on March 6, 2020. She worked about 20 to 25 hours per week, and was paid \$7.25 an hour. Her supervisor was Store Manager My Hua. Claimant Zakula was furloughed for about a month from the end of March to April 25, 2020 because of the coronavirus pandemic. She returned to work on April 26, 2020.

Claimant Zakula took classes at the University of Iowa in 2018 to 2019, and then stopped attending school. She moved to Illinois to live with her Mother. She wanted to resume classes, so she moved to Iowa City in June of 2019.

The commute from her new home in Iowa City to her job at the Davenport General Nutrition Store took an hour each way. Claimant Zakula talked to her Store Manager and her District Manager about transferring to work at a General Nutrition Store in Iowa City. Claimant Zakula

claims the District Manager "insinuated" that there would be a job for her at the Iowa City store. She gave her 2-weeks notice to the Store Manager for the Davenport store. Her last day of work there was July 1, 2020.

Claimant Zakula called the manager of the Iowa City General Nutrition store after the July 4 holiday and asked about her schedule. She was told there weren't any openings for her at the Iowa City store. The Claimant admitted she did not call the Iowa City store to confirm she had a job there *before* she left the Davenport store. The Claimant claims that had she known there wasn't a place for her at the Iowa City store, she would have stayed at the Davenport store where she worked. She was told by her Davenport Manager Hua that the store was closing – which it did two weeks after her last day of work there. Claimant Zakula admitted that she did not call the District Manager to discuss why there wasn't a position for her at the Iowa City store.

Claimant Zakula disputed at hearing that she "resigned from her job" at the Davenport store. She said her former Store Manager Hua suggested she write her appeal that way, and that he had helped other employees file for unemployment benefits. When she could not get a job in Iowa City, she moved back home to her Mother's house in Illinois.

Claimant Zakula applied for unemployment benefits. Her claim was denied in an October 29, 2020 decision (Ref. 01). The decision denying her claim stated in pertinent part: "Our records indicate that you left your employment voluntarily on 07/01/20. You have failed to produce evidence showing that you had good cause for voluntarily leaving your employment."

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

There is no evidence and no determination made that Claimant Koszette Zakula was discharged from his employment for misconduct. The issue in this case is whether Ms. Zakula voluntarily quit her employment with General Nutrition Corporation.

For the reasons that follow, the administrative law judge concludes as follows:

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(20) 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.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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). Where a claimant walked off the job without permission before the end of his shift saying he wanted a meeting with management the next day, the Iowa Court of Appeals ruled this was not a voluntary quit because the claimant's expressed desire to meet with management was evidence that he wished to maintain the employment relationship. Such cases must be analyzed as a discharge from employment. *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

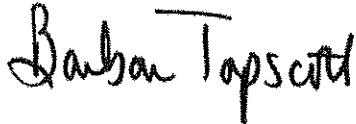
The evidence shows that Claimant Zakula had an intention to leave her job at the Davenport General Nutrition Store where she had work for some four months. She admitted that she gave two weeks notice of her decision to leave the store, and her last day of work was July 1, 2020. She testified that her District Manager "insinuated" that she would have a job at the Iowa City General Nutrition store. She admitted that she did not call the Iowa City store and verify she was hired there and on the schedule until after the July 4 holiday. When she called the Iowa City store manager and found out they did not have an opening, she sought unemployment benefits. Claimant Zakula admitted at hearing that she did not call her District Manager to find out why she could not work in Iowa City. She also could not go back to the Davenport store because it was closing in mid-July.

Claimant Zakula has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "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. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. Iowa Admin. Code r. 871-24.26(3), (4). Leaving because of dissatisfaction with the work environment is not good cause. Iowa Admin. Code. R. 871-24.25(1).

In this case, Claimant Zakula submitted her two weeks' notice to leave the General Nutrition store in Davenport. Although she believed she would be able to transfer to the Iowa City, she admitted she did not take steps before she left her job at the Davenport store to confirm she was hired in Iowa City. While Claimant Zakula may have believed she could be hired on at the Iowa City store – what she wanted and what she thought -- do not constitute good cause that is attributable to the employer according to Iowa law. In essence, Claimant Zakula is seeking unemployment benefits because she was not able to get the job she wanted, even when she failed to take the steps necessary to verify she had the job.

DECISION:

The October 29, 2020 (reference 01) unemployment insurance decision is affirmed as to the finding that Claimant Koszette Zakula voluntarily quit employment her employment with General Nutrition Corp. without good cause attributable to the employer. Unemployment insurance benefits shall be withheld in regards to this employer until such time as Claimant is deemed eligible. Claimant is encouraged to consider applying for Pandemic Unemployment Assistance (PUA) if she has not already done so.



Barbara Tapscott
Administrative Law Judge

January 27, 2021
Decision Dated and Mailed

BMT/AA

CC: Koszette Zakula, Claimant (by First Class Mail)
General Nutrition Corporation, Employer (by First Class Mail)
Nicole Merrill, IWD (By Email)
Joni Benson, IWD (By Email)

Note to Claimant: Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.