

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KIMBERLY C JONES

Claimant

APPEAL NO: 10A-UI-10136-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BURKE MARKETING CORPORATION

Employer

OC: 06/20/10

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Kimberly C. Jones (claimant) appealed a representative's July 13, 2010 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Burke Marketing Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 2, 2010. The claimant participated in the hearing. Shelli Seibert appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on October 31, 2005. She worked full time as a sanitation worker in the employer's pizza topping manufacturing business. She normally worked a third shift, starting at 11:00 p.m. to 7:00 a.m., starting on Sunday evening, and ending on a Friday morning. Her last shift worked was the shift that started at 11:00 p.m. on June 8 and ended at 7:00 a.m. on June 9. She called in an absence for her shift the evening of June 9. On June 10 she informed the employer that she was quitting. Her reason for quitting was that she did not feel she had proper training on the machine she had been assigned to and was not able to get the work done to her lead man's or supervisor's satisfaction.

The claimant had returned from a medical leave on June 1 and had been assigned to a new machine, a pre-oven. The lead man was still coming back behind her and doing some additional cleaning to the machine. The claimant did not seek additional training. She had not been given any disciplinary warning regarding the work she was doing, and her job was not in jeopardy.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Quitting because of a belief that work is not to the employer's satisfaction, where the employer has not taken action to end the employment because of the job performance, is not good cause for quitting. 871 IAC 24.25(33). The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (22). Quitting because a reprimand has been given is not good cause. 871 IAC 24.25(28). The claimant has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). The claimant has not satisfied her burden. Benefits are denied.

DECISION:

The representative's July 13, 2010 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of June 10, 2010, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css