

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RAE L BIERMAN
Claimant

APPEAL NO: 14A-UI-12217-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 10/26/14
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's November 19, 2014 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she voluntarily quit for reasons that do not qualify her to receive benefits. The claimant participated at the December 15 hearing. Frankie Patterson, a Corporate Cost Control representative, appeared on the employer's behalf. Bill Robinson, the store director, and Brett Irving, the manager of operations, testified on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in March 2010. When her employment ended, the claimant worked as a full-time assistant manager.

On October 31, 2014, the employer showed the claimant the complaint a part-time employee made against the claimant. The part-time employee alleged the claimant sexually harassed her in three different incidents. The claimant acknowledged she made one for the comments the employee had reported. The employer informed the claimant that information had been sent to the corporate office to decide what to do about the claimant's continuing employment. The employer still considered the claimant an employee and asked her to go back to work.

The claimant was very upset, but went back down to work. When the claimant was working, an employee called the claimant an inappropriate name and another employee waved bye-bye to her. The claimant concluded the employer was going to discharge her and went back to Robinson's office. The claimant did not want her personnel file to show she had been discharged. While the claimant was still upset, she informed the employer she was quitting effective immediately. The claimant completed paperwork that reflected she had quit.

The next day, the claimant asked if she could transfer to another store. The employer did not respond to this request because she had quit the day before.

The claimant established a claim for benefits during the week of October 26, 2014.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. The employer may have discharged the claimant, but that decision had not been made when the claimant submitted her resignation on October 31. The evidence establishes the claimant initiated her employment separation on October 31, 2014. After the claimant had an opportunity to calm down and think about her options, she effectively asked the employer on November 1 if she could rescind her resignation by asking if she could transfer. The employer had already accepted the resignation, so transferring to another location was not an option.

When a claimant quits she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6(2). The law presumes a claimant quits without good cause when she leaves because she believes her job performance is not satisfactory, but the employer has not terminated a claimant's employment and continuing work was still available. 871 IAC 24.25(33). The claimant established she resigned because she believed the employer would discharge her and she did not want her personnel record to indicate she had been discharged. The claimant established compelling reasons for resigning, but her reasons do not qualify her to receive benefits.

DECISION:

The representative's November 19, 2014 determination (reference 01) is affirmed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits. As of October 26, 2014, the claimant is disqualified from receiving unemployment insurance benefits. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs