

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERESA D BRATTON
Claimant

APPEAL NO. 12A-UI-06985-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAMILY DOLLAR STORES OF IOWA INC
Employer

**OC: 05/20/12
Claimant: Appellant (5)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Teresa Bratton filed a timely appeal from the June 11, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on July 9, 2012. Ms. Bratton did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Scott Andrews represented the employer.

ISSUE:

Whether Ms. Bratton's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Teresa Bratton was employed by Family Dollar Stores of Iowa, Inc., from 2008 until May 23, 2012; she voluntarily quit. At the time of the quit, Ms. Bratton was the store manager for the employer's Fort Dodge store. As of March 2012, District Manager Scott Andrews was Ms. Bratton's immediate supervisor.

On April 4, 2012, Ms. Bratton returned to work from a leave of absence after suffering a heart attack in December 2011. Ms. Bratton returned with medical restrictions of working no more than 40 hours per week and lifting no more than 25 hours. The employer was willing to accommodate the medical restrictions. From the time Ms. Bratton returned to work in April to the day she quit, there were only two weeks when Ms. Bratton's hours exceeded 40. In one of those instances, the hours were 42.9. In the other, the hours were 40.46. With each, it was Ms. Bratton's decision to work the extra time, not a requirement imposed by the employer.

On April 15, Ms. Bratton had asked for extra help with her store and the employer made a manager from another store available to assist.

On May 11, Ms. Bratton submitted an e-mail to Mr. Andrews indicating that she was quitting. Nonetheless, Ms. Bratton continued to report to work for almost two more weeks.

On May 23, Ms. Bratton sent Mr. Andrews an email asking whether Mr. Andrews would have time to speak with her the next day. Ms. Bratton was aware that Mr. Andrews and his supervisor were scheduled to be at the Fort Dodge store the next day. Mr. Andrews sent an email in response, indicating that he would not have time to speak with Ms. Bratton. Ms. Bratton responded with a email giving her quit notice, to be effective immediately. Ms. Bratton wrote, "I'm done." Ms. Bratton wrote that she had received help for one week and that was it. Ms. Bratton wrote that Mr. Andrews had given her no other option, that she could not allow the employment to give her another heart attack, and that she was "tired of the lies." Ms. Bratton indicated that she would leave her keys with another store manager. That was the last of the contact between the parties.

Ms. Bratton had not provided the employer with any medical documentation indicating that she needed additional accommodations. Ms. Bratton had not provided the employer with any medical documentation indicating that a doctor had advised her to leave the employment.

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005).

Ms. Bratton failed to participate in the hearing and, thereby, failed to present any evidence to support her assertion that she quit for good cause attributable to the employer. There is insufficient evidence to establish that Ms. Bratton's voluntary quit was based on advice from a doctor or that the working conditions were intolerable or detrimental. There is sufficient evidence to establish that Ms. Bratton quit due to dissatisfaction with the employment and dissatisfaction with Mr. Andrews. When a claimant voluntarily quits due to dissatisfaction with the work environment or a personality conflict with a supervisor, the quit is presumed to be without good cause attributable to the employer. See Iowa Admin. Code section 871 IAC 24.25(21) and (22). Ms. Bratton has presented no evidence to overcome that presumption.

Ms. Bratton voluntarily quit the employment for personal reasons and without good cause attributable to the employer. Accordingly, Ms. Bratton is disqualified for benefits until she has

worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits paid to Ms. Bratton.

DECISION:

The Agency representative's June 11, 2012, reference 01, decision is modified as follows. The claimant voluntarily quit the employment for personal reasons and without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs