

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEANNA D BACON
Claimant

APPEAL NO. 11A-UI-16524-S2

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 11/13/11
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Deanna Bacon (claimant) appealed a representative's December 21, 2011 decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Hy-Vee (employer). After hearing notices were mailed to the parties' last-known addresses of record, a hearing was scheduled for February 8, 2012, in Des Moines, Iowa. The claimant participated personally. The employer was represented by Paul Jahnke, Hearings Representative, and participated by Jae Book, Store Director; Jim Raes, Assistant Director; and Allan Larsen, Convenience Store 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 October 1, 2008, as a part-time fuel clerk. On November 1, 2011, the claimant had an informal conversation with the store director regarding the appearance of her in the convenience store in which she worked. On November 2, 2011, the claimant's supervisor took her in the backroom and told her that he was going to start her "fucking night" like the store director started his day. The claimant said she would return to working at the grocery store. The supervisor told the claimant she could not just start working at the other location because they did not want her either. The claimant became upset and walked across the street to the building that housed the store director's office.

The claimant, the store director, the assistant director and the convenience store manager, met in the store director's office. At one point the claimant was so upset that she said she was considering giving her two week's notice of resignation. Later she said she was quitting immediately and got up to leave the meeting. The assistant director walked the claimant to the top of the stairs. He said that he recognized that she quit but she should call if there was anything he could do for her.

On November 3, 2011, the claimant called the employer. She spoke to the store director who said she should call the assistant director the following day at noon. On November 4, 2011, the claimant called the employer at noon. The assistant director reiterated that the employer considered the claimant to have quit. 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.

871 IAC 24.25(21) 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 § 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 § 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:

(21) The claimant left because of dissatisfaction with the work environment.

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 that she was leaving and quit work. When an employee quits work because she is dissatisfied with the work environment, her leaving is without good cause attributable to the employer. The claimant left work because she did not like her work environment. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

The claimant's and the employer's testimony is inconsistent. The administrative law judge finds the employer's testimony to be more credible because the employer provided three eye witnesses to the resignation.

DECISION:

The representative's December 21, 2011 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/pjs