IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

MILAGROS G COMER
201 – 3RD ST
LORIMOR IA 50149

WINNEBAGO INDUSTRIES
PO BOX 152
FOREST CITY IA 50436-0152

Appeal Number: 05A-UI-12283-RT
OC: 12-19-04 R: 03
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the ***Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319***.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

_____
(Administrative Law Judge)

_____
(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant, Milagros G. Comer, filed a timely appeal from an unemployment insurance decision dated December 1, 2005, reference 01, denying unemployment insurance benefits to her. After due notice was issued, a telephone hearing was held on December 21, 2005, with the claimant participating. Lorna Zrostlik, Personnel Recruiter, and Ricky D. Friday, Plant Manager of the employer's plant in Lorimor, Iowa, where the claimant was employed, participated in the hearing for the employer, Winnebago Industries. Employer's Exhibit One was admitted into evidence. The administrative law judge takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, including Employer's Exhibit One, the administrative law judge finds: The claimant was employed by the employer as a full time production laborer, most recently as a senior operator in the employer's plant in Lorimor, Iowa, from May 29, 1984 until she voluntarily quit on November 2, 2005. On that day the claimant approached the plant manager, Ricky D. Friday, one of the employer's witnesses, and told him that she was giving him his resignation that day. He asked the claimant three times if that was what she wanted to do after 21 years of employment and the claimant indicated in the affirmative, yes, each time. The claimant quit because she had received a verbal reprimand with a written record earlier that day, November 2, 2002. The claimant had been working on an item which had been returned to her for poor quality. The second time the claimant passed the item on, it was in worse condition. The claimant was then given a verbal reprimand with a written warning with three individuals present, Mr. Friday and Holly Frosch, Senior Lead and Ramona Landers, Lead Person. The claimant testified that she believed the three individuals were "ganging up" on her. However, the employer's normal process for a reprimand or warning is to involve the lead person and the senior lead. The three individuals giving the claimant the reprimand did not yell or scream at the claimant nor did they use profanity and, in fact, were "pretty decent about it." This was the claimant's only reprimand in 21 years and she was upset. After thinking about it for a little while, she quit.

The claimant testified that she also quit because she did not get a pay raise in 1988 and 2003 but conceded that no pay raise had ever been promised to her that she did not get. The claimant was at the top of her labor grade and was not entitled to another raise. The claimant also testified that others were being paid more. The claimant never expressed any concerns about any of these matters to the employer prior to her quit.

REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant's separation from employment was a disqualifying event. It was.

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.

871 IAC 24.25(13), (21), (28) 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. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(13) The claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.

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

(28) The claimant left after being reprimanded.

The parties agree, and the administrative law judge concludes, that the claimant left her employment voluntarily on November 2, 2005. The issue then becomes whether the claimant left her employment with the employer herein without good cause attributable to the employer. The administrative law judge concludes that the claimant has the burden to prove that she has left her employment with good cause attributable to the employer. See Iowa Code section 96.6-2. The administrative law judge concludes that the claimant has failed to meet her burden of proof to demonstrate by a preponderance of the evidence that she left her employment with the employer herein with good cause attributable to the employer. The claimant testified that she left her employment because she was given a warning on November 2, 2005, involving three people and she felt they were "ganging up" on her. However, there is no evidence, and even the claimant conceded, that the three did not yell at her or scream at her or use profanity. In fact the claimant conceded that the three were "pretty decent about it." The evidence establishes that the normal process for a reprimand or warning is to involve the lead and the senior lead and those two individuals along with the plant manager were present when the claimant received her warning. The evidence also establishes that the claimant only received a verbal warning with a written record. The claimant testified that this was her only reprimand in 21 years and that she was upset about it. She testified that she believed that the three individuals were "ganging up" on her but there is no evidence to support this other then that the three were present per the employer's policies. The claimant testified that she thought that those individuals would be "hounding" her later but she could give no reasons for feeling this way and there is no evidence to that effect. The claimant then testified that she was not given a raise in 1988 and 2003 although she conceded that she had never been promised a raise that she did not receive. The evidence establishes that the claimant had reached the top of her labor grade and therefore was not entitled to a raise. The claimant then testified that others were getting paid more.

The administrative law judge is constrained to conclude that the claimant has not demonstrated by a preponderance of the evidence that any of the reasons given by her for her quit, especially the reprimand, made her working conditions unsafe, unlawful, intolerable or detrimental, or subjected to her a substantial change in her contract of hire. The bottom line here is that the claimant quit because she was reprimanded and this upset her but leaving work voluntarily because of a reprimand is not good cause attributable to the employer. There is no evidence that the reprimand was in any way inappropriate to the extent that it would be good cause attributable to the employer for a quit. The claimant testified vaguely to not getting a raise in 1988 and in 2003 but conceded that she had never been promised any. The evidence also establishes that she had reached the top of her labor grade. Leaving work voluntarily because of a dissatisfaction with wages but knowing the rate of pay when hired is not good cause attributable to the employer. The claimant also testified that others were getting paid more but this is not unusual in work environments. There was some evidence that the claimant was dissatisfied with her work environment but again this is not good cause attributable to the employer. Finally, there is no evidence that the claimant ever expressed any concerns to the employer about these matters before she quit. The claimant did not give the employer any reasonable opportunity to address any of these concerns before her quit. In fact, the evidence

establishes that the Plant Manager, Mr. Friday, asked the claimant three times if quitting was what she wanted to do after 21 years of employment and the claimant answered in the affirmative yes each time. Accordingly, the administrative law judge concludes that the claimant left her employment voluntarily without good cause attributable to the employer and, as a consequence, she is disqualified to receive unemployment insurance benefits. Unemployment insurance benefits are denied to the claimant until, or unless, she requalifies for such benefits.

DECISION:

The representative's decision of December 1, 2005, reference 01, is affirmed. The claimant, Milagros G. Comer, is not entitled to receive unemployment insurance benefits until, or unless, she requalifies for such benefits, because she left her employment voluntarily without good cause attributable to the employer.

kkf/kjw