

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CANDICE KING
Claimant

D OF C FOODS INC
Employer

APPEAL 19A-UI-07835-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/08/19
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On October 7, 2019, Candice King (claimant) filed an appeal from the September 26, 2019, reference 01, unemployment insurance decision that denied benefits based upon the determination she voluntarily quit employment with D of C Foods, Inc. (employer) due to dissatisfaction with the work environment which does not constitute good cause attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on October 28, 2019. The claimant participated personally. The employer participated through General Manager Jessica Tustin and was represented by HR Generalist Kelly Henrich.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was re-employed full-time as a Manager beginning on July 27, 2018, and was separated from employment on August 23, 2019, when she quit.

The claimant had some time off due to issues in her personal life. She returned on August 23 and discussed the situation with General Manager Jessica Tustin. The claimant reported to her station around 10:30 a.m. Tustin told the claimant and all other employees to remain at their station to take care of customers. The claimant left her station on numerous occasions to get cups, make change, or other minor duties, none of which were duties she had been assigned to perform by Tustin. Each time the claimant left her station, Tustin directed her to return to her station. Tustin did not use any profanity or engage in any name calling when directing the claimant to return to her station; however, her voice became elevated at some point during the shift. A little after 11:00 a.m., the claimant went to the manager's office, left her key, told them she was done with the place, and clocked out. The claimant left and did not return.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer. Benefits are denied.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.25 provides, in relevant part:

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:

...

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

(22) The claimant left because of a personality conflict with the supervisor.

...

(27) The claimant left rather than perform the assigned work as instructed.

(28) The claimant left after being reprimanded.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). 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 has not met the burden of proof to show she voluntarily left with good cause attributable to the employer. The claimant's argument that Tustin was harassing her during her last shift is not persuasive. Tustin did not use any profanity nor did she call the claimant names. Tustin was also directing all employees to remain in their station. The claimant left rather than perform the work as assigned by Tustin and due to a personality conflict with Tustin, which does not constitute good cause attributable to the employer. Benefits are denied.

DECISION:

The September 26, 2019, reference 01, unemployment insurance decision is affirmed. The claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn