

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANITA OLSONKIENE
Claimant

APPEAL NO: 10A-UI-12621-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE BON-TON DEPARTMENT STORES INC
Employer

**OC: 08/01/10
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Anita Olson-Kiene (claimant) appealed an unemployment insurance decision dated September 1, 2010, reference 01, which held that she was not eligible for unemployment insurance benefits because she quit her employment with The Bon-Ton Department Stores, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 29, 2010. The claimant participated in the hearing. The employer participated through Shelly Jepson, Store Manager of Human Resources and Mary Snyder, Regional Manager of Fine Jewelry. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

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 employed as a full-time fine jewelry manager at Younkers in Valley West Mall in Des Moines, Iowa from November 6, 2009 through July 31, 2010. She previously worked for Finley Fine Jewelry in the Younkers store until The Bon-Ton Department Stores purchased Finley Fine Jewelry in November 2009.

The claimant submitted a written resignation on July 5, 2010 resigning from her manager position. She resigned because the position was "just not working out." The letter indicated she would stay on until August 3, 2010 or until a new manager was hired. The claimant stated that she would be very willing to stay on in the jewelry department or elsewhere as needed.

The employer accepted the claimant's resignation but did not offer her a part-time position due to the fact that the claimant had received three disciplinary corrective warnings for performance. She received her first warning on February 24, 2010; her second warning on May 4, 2010; and a final corrective action warning on June 11, 2010.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out by submitting a written resignation on July 5, 2010. She quit her manager position for personal reasons. The claimant wanted to work for the employer in another capacity but was not offered other employment due to three corrective action warnings for her performance.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated September 1, 2010, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs