

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JO A WARE
Claimant

HOME DEPOT USA INC
Employer

APPEAL 22A-UI-07317-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/20/22
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit from Employment

STATEMENT OF THE CASE:

On March 18, 2022, claimant Jo A. Ware filed an appeal from the March 8, 2022 (reference 01) unemployment insurance decision that denied benefits based on a determination that the claimant quit her employment for personal reasons. The parties were properly notified of the hearing. A telephonic hearing was held at 8:00 a.m. on Wednesday, May 4, 2022. The claimant, Jo A. Ware, participated personally and was represented by non-attorney representative Laughton Ware. The employer, Home Depot USA, Inc., sent in written notice that it would not be participating in the hearing. No exhibits were offered or admitted.

ISSUE:

Was the claimant's separation without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for Home Depot USA, Inc., in May 2015. She worked for the company most recently as a full-time cashier. Claimant's employment ended on or about February 22, 2022, when she quit.

On claimant's final day of work, she was called to the office to meet with general manager Jason Randall and assistant store manager Caroline. Randall informed claimant that three people had accused her of sexual harassment and the employer would need to conduct an investigate. Claimant replied, "I don't know why we're doing this; I'm quitting anyway." Randall seemed surprised by this information, but claimant though he already knew that she was wanting to leave her employment and find a new job. Randall provided claimant with a resignation form, and claimant filled it out.

Neither Randall nor Caroline told claimant that she would be discharged if she did not resign from her job. Randall told claimant, "You decide what it is you need to do." Claimant quit because she felt intimidated by the accusations of sexual harassment against her. She believed these accusations were retaliatory.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 96.5(2)a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

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.

Iowa Admin. Code r. 871-24.25 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:

(6) The claimant left as a result of an inability to work with other employees.

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

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation.

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).

Here, the claimant testified that she quit her employment because she felt intimidated by being accused of sexual harassment by her coworkers. Claimant was in a meeting with the store's general manager and assistant manager, and she had the opportunity to participate in the investigation and defend herself against these allegations. However, she chose not to do that. Instead, the claimant elected to resign from her employment. She admits that no one told her she would be discharged if she did not quit that day. There was still work available for her with the employer, but she chose to quit. While claimant may have ended her employment for compelling personal reasons, it was not for a good-cause reason fairly attributable to her employer.

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). Claimant informed Randall and Caroline that she was quitting, and she completed a resignation form. Claimant's quitting was without good cause attributable to the employer. Benefits must be denied.

DECISION:

The March 8, 2022 (reference 01) unemployment insurance decision is affirmed. Claimant separated from 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.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

May 6, 2022

Decision Dated and Mailed

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