

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELISSA D MESNER
Claimant

APPEAL NO. 12A-UI-01300-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

TUR-PAK FOODS INC
Employer

OC: 12/25/11
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated January 27, 2012, reference 01, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 28, 2012. The claimant participated. The employer failed to respond to the hearing notice and did not participate. The record consists of the testimony of Melissa Mesner.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The employer processes raw and cooked frozen chicken. The claimant was initially employed through a temporary agency and became a full-time employee on December 18, 2006. During the course of her employment, the claimant's job responsibilities steadily increased, as did her workload. The claimant had responsibilities as an accounting clerk and later she did administrative assistant, inventory, and payroll. The claimant's supervisor was named Dan Larson. Mr. Larson not only added additional duties to the claimant's already full workload, but he would change the processes or ways the work was supposed to be done.

On December 27, 2012, Mr. Larson called the claimant and informed her that she would be assuming additional inventory work and would have to prepare the inventory from inventory cards provided by another employee. On December 28, 2011, the employee brought the claimant the inventory cards, but no inventory summary sheet. When the claimant asked about the inventory summary sheet, she was told that Mr. Larson no longer wanted that prepared. The claimant said she could not believe this, because she always double checked the inventory cards against the summary sheet. The claimant called Mr. Larson to find out what should be done.

Mr. Larson's office was on the third floor and he came down to the second floor, where the claimant worked. He began staring her down and yelling and screaming at her. The claimant told Mr. Larson she did not deserve to be talked to like that and she walked out.

REASONING AND CONCLUSIONS OF LAW:

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.

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 voluntarily quit her employment on December 28, 2011, due to what she deemed to be a hostile work environment. Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005).

The evidence provided by the claimant does not rise to an intolerable or detrimental work environment. "Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (Florida App. 1973). The evidence established that the claimant's workload was very heavy and made more difficult by Mr. Larson's constant changes and additions of more tasks. When the claimant tried to resolve it, his response was to yell and scream at her on December 28, 2011.

The administrative law judge is sympathetic to the claimant's situation. The claimant was asked to do more work and under trying circumstances with Mr. Larson. He acted in an unprofessional manner by yelling and screaming at the claimant. No employee should have to endure that. But, the claimant did not provide evidence of a pattern of misbehavior on Mr. Larson's part or that of other management. Heavy workloads are part of many employees' jobs. The claimant was in a difficult job with a difficult manager, but that alone does not make the workplace intolerable or detrimental. Since the claimant voluntarily quit without good cause attributable to the employer, benefits are denied.

DECISION:

The representative's decision dated January 27, 2012, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw