

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

JANET DAVISON  
509 – 10<sup>TH</sup> ST  
SHELDON IA 51201

SIOUXLAND OPHTHALMIC LABS INC  
300 W 16<sup>TH</sup> ST  
SHELDON IA 51201

Appeal Number: 04A-UI-05850-ET  
OC 05-02-04 R 01  
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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 18, 2004, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on June 16, 2004. The claimant participated in the hearing. David Jochims, General Network Manager, participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time production worker for Siouxland Ophthalmic Labs from June 5, 1997 to May 3, 2004. On May 3, 2004, Production Manager Ed Pettit told the claimant

she had to use the pin beveling lens machine in the lab or she would be moved to another position. The claimant was afraid of the pin beveler because of a childhood accident with a grinder so she used sandpaper to smooth the edges of the lens. On April 29, 2004, another employee cut her finger on a lens that had not been pin beveled and had to have stitches. Production Manager Madeline Houffin told the claimant she needed to use the machine. Ms. Houffin told Mr. Pettit she felt the claimant was insubordinate and the claimant told him Ms. Houffin was rude. After Mr. Pettit talked to the claimant about the situation she went to General Network Manager David Jochims and said he knew she was afraid to run the pin beveler. Mr. Jochims said he was not aware of that and running the machine was part of her job and the claimant got loud and said, "So I'm just a liar, huh?" Mr. Jochims said she could "be a smart-ass in back but not in (his) office," and told the claimant to leave his office. The claimant asked if she was being fired and Mr. Jochims said no. The claimant went home between 9:30 a.m. and 10:30 a.m. without asking permission or notifying the employer she was leaving. She reported for work May 4, 2004, and her time card was not there. Mr. Pettit told the claimant she needed to speak to Mr. Jochims, who was not in the office at the time, and the claimant left a message for him to call her. Mr. Jochims called the claimant later that day and she stated they needed to talk. Mr. Jochims said he assumed the claimant voluntarily quit when she walked out and when she responded to him in a sarcastic manner he stated they did not need to talk further.

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(21). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code Section 96.6-2. While the claimant may have been afraid to use the pin beveler machine because of a childhood accident, the employer's requirement was not unreasonable, especially in light of the fact another employee had been cut on a lens and needed stitches and that was not the first time an employee had been injured. Ms. Houffin reported the claimant was insubordinate when she discussed the issue with her April 29, 2004. The claimant's response to Mr. Jochims' saying he was not aware she was afraid to run the machine was inappropriate and unprofessional and his telling her to leave his office under those circumstances is understandable. The claimant testified Mr. Jochims did not tell her to go home or that her employment was terminated, but she chose to walk out because she was upset. Although the claimant denies she intended to quit her job, the administrative law judge finds a reasonable employer could conclude from her actions in refusing to use the pin beveler, insubordination toward two management employees, and walking off the job that she did voluntarily leave her employment. Even if she did not intend to quit, her actions constituted

disqualifying job misconduct. Therefore, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer. Benefits are denied.

DECISION:

The May 18, 2004, reference 01, decision is affirmed. The claimant voluntarily left her 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.

je/kjf