

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ASHLEY L POSEY
Claimant

HY-VEE INC
Employer

APPEAL 17A-UI-11258-DL

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/08/17
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 27, 2017, (reference 01) unemployment insurance decision that denied benefits based upon voluntarily quitting the employment. After due notice was issued, a hearing was held on December 15, 2017, in Mason City, Iowa. Claimant participated. Employer participated through human resource manager Erika Elbert and store director Dan Steenhoek. Melissa Hill of Corporate Cost Control represented the employer. Employer's Exhibit 1 was received. Claimant's Exhibit A was received.

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: Claimant was employed as a full-time bakery clerk at the Algona Hy-Vee from November 23, 2015, until she walked off the job on September 7, 2017. She had been scheduled to work but was a no-call/no-show on September 8, 9 and 10 in violation of company policy that no call-no show absences for three consecutive workdays is considered a voluntary quitting of employment. She spoke to someone in the corporate human resource office on September 11. She met with Steenhoek on September 13 and he allowed her to return to work in the grocery department until he could conduct an investigation about her complaint that she was having difficulty working with lead cake decorator Jenna and bakery clerk Mica. She did not give him specific examples but testified they left for break together, leaving her alone at counter during long breaks; and she thought Jenna was giving away cake decorating to Mica and others. Steenhoek's investigation revealed that Jenna and Mica were tired of listening to claimant complain about personal issues so did not talk to her. He had already noticed Jenna and Mica take extended breaks so gave them a verbal counseling about that. Bakery clerk Kaitlyn transferred to a different department because she did not enjoy working in the bakery. Then Steenhoek let claimant go back to work in the bakery. There were no transfer positions available within the store and he does not have control about positions in other stores. He did tell her that if she could not get along in the bakery department there would not be a transfer. Claimant did not tell Steenhoek that she wanted Jenna and Mica to be disciplined or her to be

transferred. It is not the practice of Hy-Vee to share personnel disciplinary action with other employees. Claimant also erroneously believed, but did not verify, that new employee Mackenzie was there to take over “her” cake decorating duties. Claimant, Mackenzie and Mica were all hired as bakery clerks. On October 5 he held a bakery staff meeting reminding employees to work together, not bring personal issues to the store, and help each other. He thought everyone understood his expectations and claimant did not tell him of any other concerns that may have happened during that week before she quit. Steenhoek offered claimant work on the third shift so she would not have to work with Jenna and Mica. He also offered her work on an upcoming donut-making shift to begin in February 2018. The pay would have remained the same. She neither accepted nor declined other jobs when she quit without notice again on October 12, 2017, and did not report for scheduled shifts on October 13, 14, and 15, 2017.

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.

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 pertinent 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:

(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.

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

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

While the employer has the burden to establish the separation was a voluntary quitting of employment rather than a discharge, 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).

Iowa Admin. Code r. 871-24.25(4) 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Further, claimant's decision to quit because she did not agree with her supervisor and manager about various issues, that did not rise to the level of intolerable or detrimental working conditions, was not for a good-cause reason attributable to the employer.

DECISION:

The October 27, 2017, (reference 01) unemployment insurance decision is affirmed. 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.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/rvs