

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERESA S GILBERT
Claimant

APPEAL NO. 06A-UI-11646-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GAS & GO LLC
Employer

OC: 11/05/06 R: 03
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Teresa S. Gilbert filed a timely appeal from an unemployment insurance decision dated November 30, 2006, reference 01, that disqualified her for benefits. After due notice was issued, a telephone hearing was held December 19, 2006 with Ms. Gilbert participating and being represented by Rich Schmidt, Attorney at Law. Vice President Carol Chamberlain participated for the employer, Gas & Go, LLC.

ISSUE:

Did the claimant leave work with good cause attributable to the employer?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Teresa S. Gilbert was employed part time as a floral designer at Accent Floral, a business owned and operated by Gas & Go, LLC from June 2005 until she quit on November 9, 2006. Accent Floral was located in Albia, Iowa. The claimant lived nine miles north in Lovilia, which was also the site of the employer's gas station and convenience store. The employer had provided a discount on its food products to Ms. Gilbert.

On November 8, 2006, Tom Chamberlain, the president of Gas & Go, LLC, asked Ms. Gilbert to contact a local funeral home to ask them to stop posting funeral notices on the door of the business. Since the funeral home was owned by members of Ms. Gilbert's extended family, she asked that someone else make the contact.

On the following morning, Ms. Gilbert stopped at the Gas & Go in Lovilia to purchase food for her lunch. The manager told Ms. Gilbert that Mr. Chamberlain had instructed her not to give Ms. Gilbert the discount any longer. Ms. Gilbert complained of this to Carol Chamberlain, the vice president of Gas & Go, LLC and Ms. Gilbert's direct supervisor, when she arrived at work. Ms. Chamberlain's response was, "If you can't get along with Tom, you can just leave." Ms. Gilbert's prior working relationship with Mr. Chamberlain had been less than satisfactory. Some months earlier it had been decided that complaints of one about the other would be resolved by Carol Chamberlain.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant left work with good cause attributable to the employer. It does.

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.

The evidence in this record persuades the administrative law judge that the employer retaliated against Ms. Gilbert's request that she not be required to contact the funeral home owned by her relatives. The administrative law judge concludes that the claimant's request was a reasonable attempt to avoid becoming involved in a conflict between her family and her employer. In this circumstance, the employer's retaliation by removing a long-standing fringe benefit created intolerable or detrimental working conditions. Benefits are allowed. See 871 IAC 24.26(4).

DECISION:

The unemployment insurance decision dated November 30, 2006, reference 01, is reversed. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs