

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

DENNIS L PALMER  
348 –9<sup>TH</sup> AVE N  
FORT DODGE IA 50501

HY-VEE INC  
c/o TALX UCM SERVICES INC  
PO BOX 283  
ST LOUIS MO 63166-0283

HY-VEE INC  
c/o TALX UC EXPRESS  
4100 HUBBELL #78  
DES MOINES IA 50317-4546

Appeal Number: 04A-UI-03250-DWT  
OC 02/22/04 R 01  
Claimant: Appellant (4/R)

**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 are 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 Quit  
871 IAC 24.27 – Voluntary Quit Part-Time Employment

STATEMENT OF THE CASE:

Dennis L. Palmer (claimant) appealed a representative's March 17, 2004 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Hy-Vee, Inc. (employer) would not be charged because the claimant had voluntarily quit his employment for reasons that do not qualify him to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 21, 2004. The claimant participated in the hearing. David Williams, a representative with TALX UC Express, appeared on the employers behalf with Bruce Murman, the human resource manager, as a witness. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit a part-time job for reasons that qualify him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on July 11, 2003. The employer hired the claimant to work as a part-time night stocker.

During his shift the night of August 7-8, another employee told the claimant he did not work fast enough. This employee was not the claimant's supervisor. Before the employee had said anything to the claimant, he had been told this employee liked to bully her co-workers. The claimant did not believe there was any problem with his work and told this co-worker to leave him alone. The claimant used profanity when he talked to her. The employee complained about the claimant's use of profanity when he talked to her.

The morning of August 8, the employer talked to the claimant about using profanity at work. The employer did not give the claimant any written warning and the claimant's job was not in jeopardy as a result of the incident. The employer did not realize the claimant was thinking about quitting. A short time later, the claimant gave the employer his written resignation, which was effective immediately. The claimant indicated he quit because the job was not working out. In addition to the job not working out, the claimant concluded this employee would find a way to discharge him and he did not want that to happen and he did not believe it was fair for the employer to talk to him about using profanity at work when other employees also used profanity at work.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code §96.5-1. The claimant voluntarily quit his employment on August 8, 2003, when he gave the employer his resignation. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code §96.6-2.

The law presumes a claimant quits without good cause when he leaves because he does not like the work environment or leaves after receiving a reprimand. 871 IAC 24.25 (21) and (28). The claimant presented several personal reasons for quitting. The claimant did not, however, establish good cause for quitting. The employer's account will not be charged. Iowa Code §96.7-2a(2).

If the claimant had been working full-time for the employer, he would be disqualified from receiving unemployment insurance benefits. Since the claimant quit a part-time job without good cause and has not requalified to receive benefits, 871 IAC 24.27 controls this situation. Under this regulation, a claimant may be qualified to receive unemployment insurance benefits if he is monetarily eligible to receive benefits based upon his other base period wages. This matter is remanded to the Claims Section to determine whether the claimant is monetarily eligible to receive benefits based on his other base period wages.

DECISION:

The representative's March 17, 2004 decision (reference 01) is modified in the claimant's favor and remanded to the Claims Section. The claimant voluntarily quit a part-time job without good cause. Therefore, the employer's account will not be charged. This matter is remanded to the Claims Section to determine if the claimant is monetarily eligible to receive benefits based on his other base period wages. If the claimant is monetarily eligible, under 871 IAC 24.27, he is qualified to receive unemployment insurance benefits as of February 22, 2004, provided he meets all other eligibility requirements.

dlw/kjf