

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LARA N FARSTER
Claimant

APPEAL NO. 09A-UI-10245-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

K MART CORP
Employer

OC: 05/31/09
Claimant: Respondent (2-R)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The employer, K Mart, filed an appeal from a decision dated July 7, 2009, reference 01. The decision allowed benefits to the claimant, Lara Farster. After due notice was issued, a hearing was held by telephone conference call on August 4, 2009. The claimant participated on her own behalf. The employer participated by Human Resources Manager Sandy Kapparos and Assistant Manager Allan Schwebl.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Lara Farster was employed by K-Mart from November 5, 2008 until June 4, 2009 as a part-time cashier. On June 4, 2009, the schedule for June 7, through 13, 2009, was posted by Human Resources Manager Sandy Kapparos, and she had not put the claimant on the schedule. She intended to talk with the claimant that afternoon to see whether the problems with her attendance, and the fact her drawer had been substantially short on four occasions could be resolved.

When the claimant came to work on June 4, 2009, she saw she was not on the schedule and became upset. She left the store without punching in for her shift and Assistant Manager Allan Schwebl followed her into the parking lot to persuade her to return. She kept commenting that there was no point in coming back because she was “going to be fired anyway.” No decision had been made as to what disciplinary action would be taken about the absenteeism and cash shortages, the employer intended to wait until the meeting was held to determine what course of action was best. Her name had been left off the schedule in case she was discharged, but hours would have been scheduled for her if the matter was able to be worked out.

The claimant refused to work her shift that day and drove off in her personal vehicle and never returned.

Lara Farster has received unemployment benefits since filing a claim with an effective date of May 31, 2009.

REASONING AND CONCLUSIONS OF LAW:

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 claimant quit rather than stay for her scheduled shift and meet with the human resources manager about the shortages in her drawer and her absenteeism. There is no evidence she was told by anyone she was going to be fired, only that she was to meet with the manager that day. She may very well have been discharged at the end of that meeting but no decision had yet been made. Her fear that she was going to be fired prompted her decision to resign. This does not constitute good cause attributable to the employer and the claimant is disqualified.

DECISION:

The representative's decision of July 7, 2009, reference 01, is reversed. Lara Farster is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css