

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JAMIE A JACKLEY**  
Claimant

**PILOT TRAVEL CENTERS LLC**  
Employer

**APPEAL 17A-UI-00622-DL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/11/16**  
**Claimant: Respondent (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The employer filed an appeal from the January 11, 2017, (reference 02) unemployment insurance decision that allowed benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on February 7, 2017. Claimant did not respond to the hearing notice instruction and did not participate. Employer participated through Urbandale store general manager Jeff Haney. The administrative law judge took official notice of the administrative record, including fact-finding documents.

**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 lead clerk at the Urbandale store through December 6, 2016. During the overnight shift (10 p.m. to 6 a.m.) on December 6 she was robbed with a gun put to her head. The employer offered time off and counseling via the employee assistance program (EAP). There are at least two and sometimes three people on duty overnight. Claimant asked Haney for daytime hours and was told she could work days if she were reassigned to the Altoona store across town. She declined a new assignment at the Altoona store when that general manager told her no day shifts were available. She did not communicate that information to Haney. At hearing Haney indicated that day or night shifts are now available to claimant if she wishes to return to work.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant voluntarily left the employment with 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.

Iowa Admin. Code r. 871-24.26(4) provides:

**Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits.** The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

Iowa Admin. Code r. 871-24.26(2) provides:

**Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits.** The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(2) The claimant left due to unsafe working conditions.

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). A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court recently concluded that, because the intent-to-quit requirement was added to rule 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

The claimant's desire to work the day shift was reasonable given an overnight armed robbery directed at her. The employer's failure to provide that accommodation given that trauma and the lack of enhanced overnight security measures such as a secure cashier booth, after the armed robbery created an unsafe and intolerable work environment for claimant that gave rise to a good cause reason for leaving the employment.

#### **DECISION:**

The January 11, 2017, (reference 02) unemployment insurance decision is affirmed. Claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/rvs