

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

KRISTIN M MILLER
2049 DEWBERRY AVE
BATAVIA IA 52533

BROWNS SHOE FIT COMPANY OF
FAIRFIELD IOWA LLC
1702 W BURLINGTON AVE
FAIRFIELD IA 52556-2617

PAUL MILLER
ATTORNEY AT LAW
119 N COURT
FAIRFIELD IA 52556-2812

Appeal Number: 05A-UI-11822-DWT
OC: 10/30/05 R: 03
Claimant: Appellant (1)

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, 4th 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 is 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Kristin M. Miller (claimant) appealed a representative's November 17, 2005 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Browns Shoe Fit Company of Iowa LLC (employer) would not be charged because the claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 7, 2005. The claimant participated in the hearing. Paul Miller, attorney at law, represented the claimant. Larry Cowherd and Tim Robertson appeared on the employer's behalf. Based on the evidence, the arguments of the parties, the claimant's written closing remarks, 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 her employment for reasons that qualify her to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer in May 1998. Prior to her employment separation, the claimant worked as a full-time manager at the employer's Fairfield store. As the manager, the claimant owned an interest in the Fairfield store. After the claimant became the Fairfield store manager in 2002, she increased the store's sales and profits.

In 2004, the employer offered the claimant the opportunity to manage a store in McComb, Illinois. The claimant and her husband looked into the McComb store, but the claimant declined the employer's offer. The claimant declined the McComb in part because it made less profit than her Fairfield store. The claimant told the employer she was interested in managing a central Iowa store.

When a manager was needed at the employer's Carroll store, the employer did not ask the claimant if she wanted to manage it because the Carroll store made less than the Fairfield store. The employer wanted to promote the claimant to a store that was more profitable based on her work efforts at the Fairfield store.

The employer's Oskaloosa store became available for a new manager. The employer offered this position to the person who managed the Centerville store. When this person accepted the position at the Oskaloosa store, the employer offered the claimant the manager's job at the Centerville store. After the claimant learned the Oskaloosa store had a new manager, she was very disappointed because Oskaloosa was in central Iowa, where she really wanted to work. The employer did not offer the claimant the Oskaloosa store because the Centerville manager made more profit at the Centerville store than the claimant made at the Fairfield store. The employer, however, offered the claimant the manager's position at the Centerville store. The Centerville store's profit was significantly higher than the Fairfield store profit. Centerville was located more in southern Iowa instead of central Iowa. On the day the employer offered the claimant the manager's position at Centerville, she declined the offer and submitted her two-week notice. The claimant gave her two-week resignation because she was disappointed that the employer had not offered her the Oskaloosa store to manage. The claimant's last day of work for the employer was November 2, 2005.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code §96.5-1. The claimant voluntarily quit her employment when she gave the employer her two-week notice. When a claimant quits, she has the burden to establish she quit with good cause attributable to the employer. Iowa Code §96.6-2.

The claimant asserted she quit because the employer discriminated against her based on her age and gender. The evidence does not support the claimant's assertion. The claimant never told the employer she believed the employer discriminated against her. Even when she quit, the only reason she told the employer she was quitting was because she wanted the job at

Oskaloosa and the employer did not offer it to her. The employer made a business decision and based upon reasonable criteria, the employer offered the Oskaloosa job to a manager whose store was more profitable than the claimant's Fairfield store.

Even though the claimant told the employer she wanted to manage a central Iowa store, the employer never guaranteed the claimant would manage a store she chose or when she would be able to manage such a store. Even if the store at Centerville was too far for the claimant to travel, she could have continued to work at the Fairfield store, but chose not to do so. The claimant quit for compelling personal reasons. The facts do not establish that the claimant quit for reasons that qualify her to receive unemployment insurance benefits. As of October 30, 2005, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's November 17, 2005 decision (reference 01) is affirmed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of October 30, 2005. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

dlw/pjs