

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**AMBER S JASPER**  
Claimant

**APPEAL 21A-UI-12966-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MCDERMOTT OIL COMPANY**  
Employer

**OC: 03/28/21  
Claimant: Respondent (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Admin. Code r. 871-24.26(4) – Voluntary Quitting

**STATEMENT OF THE CASE:**

On May 25, 2021, McDermott Oil Company (employer/respondent) filed an appeal from the May 20, 2021 (reference 01) unemployment insurance decision that allowed benefits based on a finding that claimant quit work on March 31, 2021 because working conditions were detrimental to her.

A telephone hearing was held on August 3, 2021. The parties were properly notified of the hearing. Employer participated by Retail Lead Jill Reimer. Amber Jasper (claimant/respondent) participated personally.

Employer's Exhibit 1 was admitted. Official notice was taken of the administrative record.

**ISSUE(S):**

- I. Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant worked for employer as a full-time store manager. Claimant's first day of employment was November 1, 2020. Claimant's immediate supervisors were Reimer and General Manager Hayley Cram. The last day claimant worked on the job was March 30, 2021. Claimant resigned at that time.

Claimant resigned due to the number of hours she was being expected to work. When claimant was hired, she understood she would be salaried and work 50 hours per week. She also knew she would be expected to staff and schedule others in the store and to fill in when shifts were not filled by others. However, claimant did not expect she would be working nearly every waking moment.

The store's assistant manager was terminated shortly after claimant began and another one was never hired. Claimant also had difficulty hiring and scheduling other employees. Cram did help claimant fill in shifts when she was available. However, in the several weeks prior to her resignation, claimant worked in excess of 70 hours each week and worked nine 18-hour shifts. Claimant was mentally and physically exhausted after these several weeks and resigned as a result. Claimant had previously told Reimer and Cram that she would have to resign if the situation did not change.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons set forth below, the May 20, 2021 (reference 01) unemployment insurance decision that allowed benefits based on a finding that claimant quit work on March 31, 2021 because working conditions were detrimental to her is **AFFIRMED**.

- I. Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. But the individual shall not be disqualified if the department finds that:

Iowa Admin. Code r. 871-24.26 provides in relevant part:

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.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). "In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected

misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

In this case, the claimant did not have the option of remaining employed nor did he express intent to terminate the employment relationship. Where there is no expressed intention or act to sever the relationship, the case must be analyzed as a discharge from employment. *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

The administrative law judge finds claimant has carried her burden of proving the voluntary leaving was for good cause attributable to employer. A reasonable person would find the working conditions to be so intolerable or detrimental as to justify resignation, particularly where claimant had warned employer she would have to resign if the conditions did not change. While claimant understood she would be salaried and would work 50 hours per week and more at times, it is wholly unreasonable for employer to expect her to work 18-hour shifts and 70 hours or more per week for weeks on end.

The separation from employment was not disqualifying and benefits are therefore allowed, provided claimant is not otherwise ineligible or disqualified. Because benefits are allowed, the other issues listed on the notice of appeal need not be addressed.

**DECISION:**

The May 20, 2021 (reference 01) unemployment insurance decision that allowed benefits based on a finding that claimant quit work on March 31, 2021 because working conditions were detrimental to her is AFFIRMED.



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Andrew B. Duffelmeyer  
Administrative Law Judge  
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August 6, 2021  
Decision Dated and Mailed

abd/lj