

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DIANA M BAILEY
Claimant

APPEAL NO. 07A-UI-07547-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ARTISTIC CLEANERS INC
Employer

**OC: 06/17/07 R: 04
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Diana M. Bailey (claimant) appealed a representative's July 30, 2007 decision (reference 03) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Artistic Cleaners, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 22, 2007. The claimant participated in the hearing. Victor Helling appeared on the employer's behalf. 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 for a good cause attributable to the employer?

FINDINGS OF FACT:

After a prior period of employment with the employer, the claimant most recently started working for the employer on October 30, 2006. She worked full time as a pants finisher/presser in the employer's dry-cleaning and laundry business. Her last day of work was March 1, 2007. She voluntarily quit as of that date.

The claimant had a brain surgery on January 11, 2006. On a day in December 2006 the claimant learned that earlier that day the two business owners, Victor "Gus" Helling and Jim Helling had a conversation in which Gus, having just banged his foot on something, commented that it hurt and he was going to have to have leg surgery. Jim responded back that he was going to have to have brain surgery. When the claimant learned of this comment she felt that it was a backhanded reference to her and she found it insulting and insensitive. She sought an apology from both the owners, but the only response was that they were just kidding around and that it was not directed at her. She was not satisfied with this and her resentment continued to fester.

The claimant's morning start schedule would vary between 6:30 a.m. to 8:00 a.m. depending on business needs. She had been told she was not to clock in before her designated start time. On March 1 she had been told not to come in before 8:00 a.m. However, there was a snow storm brewing that day and she wanted to get in before it got bad or her driveway became blocked when the snow plow would come by, so she arrived and clocked in at 7:23 a.m. Upon clocking in, she saw that the sorter had already clocked in and that she was sitting around with nothing to do, whereas she had been told not to clock in until 8:00 a.m. and there were parts waiting for her to work on. She became frustrated with the imbalance of the designated work and times on top of her simmering resentment over the December comment, and decided she was not going to stay any longer. She left, simply telling Jim as she left that she was quitting.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer.

Iowa Code § 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.

871 IAC 24.25 provides that, 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 from whom the employee has separated. A voluntary leaving of employment requires an intention to terminate the employment relationship. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (23). While the claimant's work situation was perhaps not ideal, she has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). The claimant has not satisfied her burden. Benefits are denied.

DECISION:

The representative's July 30, 2007 decision (reference 03) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of March 1, 2007,

benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css