

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

REGAN H COMBS

Claimant

APPEAL 21A-UI-09071-AR-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

THRIVE TOGETHER LLC

Employer

OC: 04/12/20

Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On March 28, 2021, claimant, Regan H. Combs, filed an appeal from the March 23, 2021, reference 01, unemployment insurance decision that denied benefits based upon the determination that claimant quit employment with employer, Thrive Together, LLC, without good cause. The parties were properly notified about the hearing held by telephone on May 28, 2021. The claimant participated personally. Claimant's witness, Michelle Hartzler-Combs, also participated. The employer participated through John J. O'Fallon, acting as the employer's representative, with Necole Loftis as employer's witness. Claimant's Exhibits 1 through 3 were admitted to the record.

ISSUE:

Did claimant quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed part-time as a host expert beginning on November 27, 2019, and was separated from employment on August 9, 2020, when she quit.

Approximately three weeks prior to the first incident between them, Nate Hademan began working at the location where claimant worked as her direct supervisor. Shortly after he began working at claimant's location, Hademan began sending Snapchat messages to claimant. These messages made her uncomfortable. Claimant states Hademan initially seemed like he wanted a friend, but he began to rely on her for emotional support. Additionally, he engaged in conversation about inappropriate topics. On one occasion, he told claimant she would "get [him] in trouble," because he was attracted to her. Claimant became so uncomfortable that she submitted her two-week notice to Hademan's supervisor, Matt Jones, in late July 2020. Claimant notes that, at the time, there were also other factors causing her to feel she needed to quit. There was another unnamed manager who expressed a desire to make claimant's life "a living hell," and there was "drama" among the staff. Claimant expressed all of these reasons to Jones when she informed him of her intention to quit.

At the time that she submitted her first resignation notice, claimant discussed her concerns with Jones. Jones convinced claimant to stay and he refused to accept her resignation. Jones relayed claimant's concerns to Loftis. She spoke with Hademan about the importance of acting professionally. He apologized and said he could see how some of the things he said could be "taken the wrong way."

On August 8, 2020, Hademan again sent Snapchat messages to claimant. These were sexually graphic in nature. When claimant confronted him via text the next day, he claimed the messages had not been meant for claimant and that he did not remember the messages because he had been intoxicated. Claimant again submitted her two-week notice to Jones on August 9, 2020. He accepted her notice and allowed her to stop working at that time. Claimant did not return to work thereafter.

After her resignation, Loftis contacted claimant after being made aware of the circumstances surrounding her resignation. Loftis promised to conduct an investigation and told claimant she was sorry about the situation. She also asked if claimant would feel comfortable continuing employment as Loftis resolved the issue. Claimant declined this offer. Loftis was not aware of any complaints made by claimant prior to the late-July 2020 incident in which she initially attempted to resign.

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 § 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.

Iowa Admin. Code r. 871—24.26(3) 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:

(3) The claimant left due to unlawful working conditions.

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.

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).

Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code section 96.2. *O'Brien v. Emp't Appeal Bd.*, 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." *Wiese*, 389 N.W.2d at 680. "[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.* Where multiple reasons for the quit, which are attributable to the employment, are presented the agency must "consider that all the reasons combined may constitute good cause for an employee to quit, if the reasons are attributable to the employer". *McCunn v. Emp't Appeal Bd.*, 451 N.W.2d 510 (Iowa App. 1989) (citing *Taylor v. Iowa Dep't of Job Serv.*, 362 N.W.2d 534 (Iowa 1985)).

Claimant has alleged that she was subjected to a hostile work environment due to Hademan's conduct. She demonstrated that she was subjected to inappropriate, and later, sexually explicit Snapchat messages by her direct supervisor. Despite one complaint about Hademan's conduct, his conduct escalated, resulting in claimant feeling she had no option but to quit. She has alleged conduct that is possible in violation of the legal protections set out by the Iowa Civil Rights Act. Claimant has carried her burden of demonstrating that she left her employment with good cause attributable to the employer.

DECISION:

The March 23, 2021, (reference 01) unemployment insurance decision is reversed. Claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.



Alexis D. Rowe
Administrative Law Judge

June 14, 2021
Decision Dated and Mailed

ar/kmj