

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAMIE C GAMMAGE

Claimant

KINSETH HOTEL CORPORATION

Employer

APPEAL 22A-UI-00634-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/07/21

Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Jamie C Gammage, the claimant/appellant filed an appeal from the December 7, 2021 (reference 01) unemployment insurance decision that denied benefits because a November 5, 2021 voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on January 27, 2022. Ms. Gammage participated and testified. The employer did not participate in the hearing. Claimant's Exhibit A was admitted as evidence.

ISSUE:

Did Ms. Gammage voluntarily 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: Ms. Gammage began working for the employer on February 6, 2021. She worked as a full-time night auditor.

The weekend of November 5-7, 2021, the hotel had 98 rooms available. The hotel accepted 115 reservations for that weekend. In the early morning of November 4, several customers showed up to check in. The employer did not have rooms available for the customers. Ms. Gammage called the person scheduled to work the next shift, her manager, and the person scheduled work the 3-11 shift. No one answered. Ms. Gammage asked the person in the kitchen, who knows how to check in customers, what she should do. The person suggested that Ms. Gammage contact the general manager. Ms. Gammage called the general manager at about 5:30 a.m. The general manager was scheduled to work at 6:00 a.m.

The general manager yelled at Ms. Gammage and said something to the effect of "If you don't know how to do your fucking job you need to find another job." Ms. Gammage was holding the phone close to, but not directly on, her ear. One of the customers shook their head and another customer said they would not take that for their employer. Ms. Gammage was embarrassed by the general manager's statement and the fact that customers heard the general manager yelling at her. Ms. Gammage also felt disrespected by the general manager yelling at

her and using profanity. The general manager would use profanity in the workplace often but it was never directed at Ms. Gammage.

After the phone call, Ms. Gammage sent the general manager a text message telling the general manager that she did not appreciate their actions in the phone call, that she felt unappreciated, embarrassed and disrespected, and that she would be leaving at 5:47 a.m. and not returning. Ms. Gammage left the job site before her shift ended at 7:00 a.m. and never returned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Gammage's separation from employment was without 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. 871-24.25(21) and (22) provide:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

(22) The claimant left because of a personality conflict with the supervisor.

The 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 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, Ms. Gammage quit because she was felt embarrassed, disrespected and unappreciated. While the general manager did use profanity, the profanity was not directed at Ms. Gammage, and the general manager had used profanity before. Ms. Gammage did what was best for her under the circumstances. However, Ms. Gammage's leaving was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The December 7, 2021, (reference 01) unemployment insurance decision is affirmed. Ms. Gammage voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.



Daniel Zeno
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February 18, 2022
Decision Dated and Mailed

dz/mh