

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BOBBY GARRISON
Claimant

APPEAL NO. 13A-UI-08743-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**NORWALK COMMUNITY SCHOOL
DISTRICT**
Employer

**OC: 06/30/13
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated July 26, 2013, reference 01, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a hearing was held on September 10, 2013, by telephone conference call. The claimant participated personally. The employer participated through Kate Baldwin, Business Manager. The record consists of the testimony of Bobby Garrison; the testimony of Kate Baldwin; and Claimant's Exhibits A-C.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The claimant worked for the employer, a school district in Iowa, for 33 years. He was an art teacher. The claimant's last day of work was April 16, 2013. The claimant was given professional time off for the remainder of the school year through July 15, 2013, because of his daughter's illness. The claimant submitted his resignation on July 1, 2013, and entered into a separation agreement with the employer. All of the claimant's conditions for resignation were agreed to by the employer. The district's board of directors approved the claimant's resignation and the separation agreement at its meeting on July 3, 2013. The claimant had been offered a contract of employment for the school year beginning in the fall of 2013 through 2014.

The claimant resigned because of health concerns. The claimant had suffered from insomnia and post-traumatic stress disorder ever since an accident that occurred 35 years ago while he was in the Air Force. The claimant was hit by a drunk driver, and the claimant witnessed this driver's death. The claimant saw his physician on July 22, 2013. He was there to discuss his ongoing chronic health problems, especially noting his difficult time sleeping second to chronic

posttraumatic stress disorder. (Exhibit B) The doctor noted that this was due to a motor vehicle accident in which a fatality occurred. (Exhibit B)

The claimant is not working and does not feel that he is capable of working. He has applied for social security disability benefits.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.25(21), (22) and(36) 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.

(36) The claimant maintained that the claimant left due to an illness or injury which was caused or aggravated by the employment. The employer met its burden of proof in establishing that the illness or injury did not exist or was not caused or aggravated by the employment.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The claimant is not eligible for unemployment insurance benefits. It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He voluntarily quit his employment on July 1, 2013, because he felt he had hostile work environment. Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the

employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d (Iowa 2005).

The evidence provided by the claimant does not rise to an intolerable or detrimental work environment. "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 So.2d 827 (Florida App. 1973). The claimant quit his job because he believed he was being harassed by one of the principals, Dr. Jody Ratigan. Dr. Ratigan was principal of grade eight and the claimant taught eighth grade students. Since she was responsible for grade eight, it is not unreasonable that she would have been in the claimant's classroom. The claimant did not quit at the beginning of the year, when he claimed he was harassed by Dr. Ratigan. He did not quit in April 2013 when he claimed there was more harassment. Rather he waited until July 1, 2013, which is after his daughter had been in the hospital and his wife had left him. There is nothing in the doctor's records to indicate that he quit his job upon advice of his doctor or because of stress in his job. The doctor's records attribute the claimant's health problems to the accident that had occurred 35 years previously. The most reasonable inference from the evidence is that the claimant decided he was no longer capable of working due to chronic health problems that were not caused by his employment. This is not good cause attributable to the employer. Benefits are denied.

DECISION:

The decision of the representative dated July 26, 2013, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefits amount, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css