

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARY LOU ORTIZ

Claimant

PMX INDUSTRIES INC

Employer

APPEAL 24A-UI-03929-AR-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/24/24

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On April 18, 2024, the claimant filed an appeal from the April 16, 2024, (reference 01) unemployment insurance decision that denied benefits based on the determination that claimant voluntarily quit employment without a showing of good cause attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on May 10, 2024. Claimant, Mary Lou Ortiz, participated. Employer, PMX Industries Inc., participated through Senior Director of HR Brian Bedard, HR Manager Kelly Fulton, Accounts Receivable Supervisor Carrie Smith, and Accounting Manager Karla Thilges. No exhibits were offered or admitted.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on May 31, 2022. Claimant last worked as a full-time accounting specialist accounts receivable. Claimant was separated from employment on February 9, 2024, when she resigned.

In July or August 2023, claimant was called into a meeting with Smith and Thilges. This meeting was meant to remind claimant of the employer's policies, after claimant had been observed not at her desk for extended periods of time. After the meeting, Thilges pulled claimant aside and told her that she could express any ongoing concerns claimant might have. Claimant did not express any ongoing concerns. Claimant sought out HR around the time of the meeting because she had been approved for unpaid time off, but Smith had rescinded the approval. Claimant wanted to know whether this was appropriate. Ultimately, claimant was approved for the time off, but she was informed that if she had paid time off to use, in the future, the employer would not approve the use of unpaid time off.

After the late-summer 2023 meeting, claimant noticed that Smith kept a closer eye on her than on other coworkers. Claimant felt that Smith required that claimant keep her informed each time claimant left the desk. She did not observe that Smith required the same of other coworkers. If claimant did not inform Smith that she was leaving the desk, Smith made remarks about the issue that claimant found distressing. Claimant felt harassed and suspected that this conduct was either retaliation for having gone to HR or it was the result of claimant's race.

Claimant approached Fulton on a number of occasions to express her concerns. These conversations were typically in passing, in the hallway or in the restroom. On at least one occasion, claimant told Fulton that she "could not work like this anymore." Fulton encouraged claimant to speak directly with Smith about her concerns. Claimant did not speak with anyone other than Fulton about her concerns. Claimant did not tell Fulton that she suspected that Smith's conduct was the result of retaliation or that it was based on her race.

On January 23, 2024, claimant submitted a letter of resignation, with an effective date of February 9, 2024. Claimant cited poor management, suspected retaliation, and general work environment as the reasons for her resignation. Fulton held an exit interview with claimant on February 9, 2024, at which time claimant informed Fulton of her suspicions regarding retaliation.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the 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 provides:

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.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

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). The standard of what a reasonable person would have believed under the circumstances is applied in determining whether a claimant left work voluntarily with good cause attributable to the employer. *O'Brien v. Emp't Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993).

In order for claimant to demonstrate that she quit with good cause attributable to the employer, she must demonstrate that she quit because the work environment was intolerable, detrimental, unlawful, or unsafe. Claimant has not so demonstrated here. Claimant felt that she was being more closely supervised than her coworkers, but even if she was more closely supervised, it did not rise to the level of harassing conduct, or conduct that would have been intolerable or detrimental. Furthermore, though claimant mentioned her concerns to an HR representative, she did not express that she suspected this conduct was the result of claimant's race or retaliation for an earlier HR encounter. Claimant's concerns were merely dissatisfaction with the work environment, or her supervisor's supervisory style. While this may have constituted a good personal reason for leaving, it does not constitute a good-cause reason attributable to the employer. Benefits are denied.

DECISION:

The April 16, 2024, (reference 01) unemployment insurance decision is AFFIRMED. Claimant voluntarily left the employment on February 9, 2024, 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.



Alexis D. Rowe
Administrative Law Judge

May 10, 2024
Decision Dated and Mailed

AR/jkb

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.