

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALLISON R SARA
Claimant

APPEAL NO: 17A-UI-08742-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

724 X 2 LLC
Employer

OC: 06/25/17
Claimant: Appellant (4)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 21, 2017, reference 02, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on September 14, 2017. The claimant participated in the hearing with Attorney Heather Carlson. Bryce Henderson, CFO/Treasurer and Toni Klaren, Bookkeeper, participated in the hearing on behalf of the employer. Claimant's Exhibits One through Four were admitted into evidence.

ISSUE:

The issue is whether the claimant voluntarily left her employment with 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 as a full-time manager for Anytime Fitness from November 2012 to March 2, 2017. She voluntarily left her employment by submitting her resignation, effective March 14, 2017, on February 28, 2017.

On February 28, 2017, the claimant attended a meeting with CFO/Treasurer Bryce Henderson and Owner Roy Carver. They discussed the claimant's future with the company and the employer asked to see all of the gym member's contracts. They also talked about problems at the gym such as employees not showing up and doing their job. Mr. Henderson told the claimant he would get ahold of her the following week.

The claimant was also upset because the employer was not in the building, was not paying all of its bills, and would not get back to the claimant about her concerns. She also complained of the ceiling leaking, equipment needing repair and being old, lights being out, the custodian not coming in, no shoveling being done, and the promised bike rack never materializing.

The claimant was looking to buy the business at the end of the third quarter or beginning of the fourth quarter 2016, but the parties could not agree on a price. The employer believed the

claimant and her fiancé were then trying to open their own gym in competition with the employer. It also believed the claimant was waiving membership and monthly fees for several members.

The claimant emailed her resignation notice to the employer February 28, 2017, following the parties meeting earlier that day. She requested that she only report to Mr. Henderson or Mr. Carver. The claimant tried to reach the employer February 28, March 1 and March 2, 2017, without success. During the morning of March 2, 2017, the employer sent two police officers to the gym to give the claimant a letter of termination and escort her out of the building.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer and the employer terminated her employment before she could complete her notice period.

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. 871-24.25(38) 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:

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

The claimant was dissatisfied with the work environment and there were certainly areas that could have been improved upon by the employer. After she met with the employer February 28, 2017, to discuss those issues and the employer asked to see the contracts of all members of

the gym, she resigned her employment in an email. While the employer did not respond to the email directly, due to its concerns about the claimant taking confidential information and waiving dues for members in an effort to lure them away to a gym the employer believed the claimant and her fiancé were trying to start, it terminated her employment without allowing her to finish her notice period.

The claimant has not demonstrated that her leaving was for good cause attributable to the employer as that term is defined by Iowa law. She submitted her two week resignation notice and the employer terminated her employment. Therefore, she is allowed benefits for the two weeks of her notice period the employer prevented her from working.

DECISION:

The August 21, 2017, reference 02, decision is modified in favor of the appellant. The claimant voluntarily left her employment without good cause attributable to the employer and the employer terminated her employment before she could finish the notice period. Benefits are allowed for the two weeks ending July 8, 2017, and denied after that date.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn