

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DANAE L THOENE
Claimant

HOPE HAVEN INC
Employer

APPEAL 16A-UI-09410-JP-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/31/16
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 19, 2016, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on September 15, 2016. Claimant participated. Employer did not participate. Ed Boll registered as a witness on behalf of the employer but did not answer when contacted at the number provided. Claimant Exhibit A was admitted into evidence with no objection.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a job coach from November 2, 2015, and was separated from employment on July 21, 2016, when she quit.

The employer has a contract with Coveris. The employer's clients cover Coveris's sewing machines and claimant coaches the clients. On almost a daily basis, a Coveris employee would yell and scream at claimant. Employer Exhibit One. The Coveris employees showed no respect for the employer's clients or for claimant. The Coveris employees used profanity at claimant and the employer's clients. Claimant would report the incidents to Mr. Boll and he responded to choose her battles wisely, because the employer needed the contract with Coveris; the situation never improved.

On June 28, 2016, Traci (a Coveris employee) was criticizing everything claimant and the client were doing. Employer Exhibit One. Traci shoved claimant just before noon. Employer Exhibit One. Claimant sent a text message to Mr. Boll that she was ready to give her 30-day notice. Employer Exhibit One. Mr. Boll's response was to cover for claimant the next day. After this incident, things got worse for claimant. Employer Exhibit One.

The final incident occurred on July 21, 2016, when claimant was covering a machine for a client that had to leave for a doctor's appointment. While claimant was getting more bags, the sewing machine thread broke. Employer Exhibit One. Claimant did not see that the thread had broken. Employer Exhibit One. A Coveris employee started screaming at claimant and calling her an idiot. The Coveris employee also used profanity towards claimant. The Coveris employee screamed, "Aren't you smart enough to watch that f**king machine?!" Employer Exhibit One. Claimant could not take the verbal abuse anymore and went to the locker room. Employer Exhibit One. Claimant sent her supervisor, Ed Boll, a text message that she had enough and she was quitting. Employer Exhibit One. Claimant waited for a response but did not get one, so she went and got her personal belongings. Employer Exhibit One. The Coveris employee that had been verbally abusing her stated, "Don't be f**king stupid, come on you seriously are going to walk?" Employer Exhibit One. Approximately 30 minutes after claimant sent her text message, Mr. Boll responded and asked what happened now. Employer Exhibit One. Claimant did not respond to Mr. Boll's message.

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. Benefits are allowed.

Iowa Code § 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. 871-24.26(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.

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).

"The use of profanity or offensive language in a confrontational, disrespectful, or name-calling context may be recognized as misconduct, even in the case of isolated incidents or situations in which the target of abusive name-calling is not present when the vulgar statements are initially made." *Myers v. Emp't Appeal Bd.*, 462 N.W.2d 734 (Iowa Ct. App. 1990). Inasmuch as an employer can expect professional conduct and language from its employees, claimant is entitled

to a working environment without being the target of abusive, obscene, name-calling. An employee should not have to endure bullying or a public dressing down with abusive language directed at them, either specifically or generally as part of a group, in order to retain employment any more than an employer would tolerate it from an employee. Claimant presented credible testimony that on almost a daily basis a Coveris employee would yell and scream at her or the employer's clients. On July 21, 2016, a Coveris employee screamed, "Aren't you smart enough to watch that f**king machine?!" Employer Exhibit One. Claimant had reported the incidences to her supervisor, but the work environment did not improve. After an incident where she was shoved by a Coveris employee on June 28, 2016, the work environment got worse. Employer Exhibit One.

The abuse by Coveris employees created an intolerable work environment for claimant that gave rise to a good cause reason for leaving the employment. Benefits are allowed.

DECISION:

The August 19, 2016, (reference 01) unemployment insurance decision is reversed. Claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/pjs