

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**TASHA BAXTER**  
Claimant

**STEENA CO LLC**  
Employer

**APPEAL 19A-UI-07245-AW-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 08/18/19**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

Claimant/appellant filed an appeal from the September 3, 2019 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on October 4, 2019, at 9:00 a.m. Claimant participated. Employer participated through Cara VanSteenis, Owner. Employer's Exhibits 1 – 8 were admitted.

**ISSUE:**

Whether claimant's separation was a voluntary quit without 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 shift manager from January 1, 2019 until January 25, 2019 when she voluntarily quit her employment. (VanSteenis Testimony) Claimant was rehired on February 20, 2019 and worked as a full-time shift manager until her employment with Steena Co, LLC (a McDonald's franchise) ended on August 15, 2019 when claimant resigned with immediate effect. (VanSteenis Testimony)

Claimant quit because she believed she was entitled to a raise due to her previous employment with Steena Co, LLC. (Claimant Testimony) Claimant believed she was treated unfairly because other managers she worked with during her previous employment received raises and she had not. (Claimant Testimony) Claimant was not entitled to a raise due to the interruption in her employment. (VanSteenis Testimony) Claimant was due for a performance review and raise six months after her rehire date, which would have been August 20, 2019. (VanSteenis Testimony) Claimant asked her supervisor about a raise and was told that she was not entitled to one; a week later, on August 15, 2019, claimant voluntarily quit her employment by written resignation. (Claimant Testimony)

Claimant alleges another reason she quit was that she was working three closing shifts per week. (Claimant Testimony) Employer's records of claimant's time punches show that claimant worked 14 closing shifts in the month of May 2019, 11 in June; four in July; and none in August.

(Exhibits 5-7) Claimant also alleges that other employees were being hired with less experience and being paid as much or more than she was. (Claimant Testimony) Claimant agreed to her rate of pay upon hiring. (VanSteenis Testimony)

Claimant's job was not in jeopardy. (Claimant Testimony) There was continuing work available for claimant if she had not quit. (Claimant Testimony)

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit her employment without good cause attributable to employer. Benefits are denied.

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

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). Where a claim gives numerous reasons for leaving employment the agency is required to consider all stated reasons which might combine to give the claimant good cause to quit in determining any of those reasons constitute good cause attributable to the employer. *Taylor v. Iowa Dep't of Job Serv.*, 362 N.W.2d 534 (Iowa 1985).

Iowa Admin. Code r. 871-24.25(13) 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:

(4) The claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.

It is the duty of the administrative law judge, as the trier of fact, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and

deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other evidence you believe; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. Id.

The findings of fact show how I have resolved the disputed factual issues in this case. I assessed the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using my own common sense and experience. I find the employer's testimony to be more credible than the claimant's testimony. Specifically, claimant omitted from her testimony that she had an interruption in her employment, which was the primary factor for her not receiving the raise to which she believed she was entitled. Further, claimant's testimony regarding the number of closing shifts she worked was not supported by the evidence of her time punches.

Claimant's written resignation is both evidence of her intention to sever the employment relationship and an overt act of carrying out her intention. Claimant voluntarily quit her employment. Claimant provided multiple reasons for quitting her job. The administrative law judge has considered all of them and finds that none of them constitute good cause attributable to the employer. Claimant was not entitled to a raise and was being paid wages she had agreed to when she was hired. Claimant was not working three closing shifts per week; and the number of closing shifts she was working had declined significantly before she quit. Claimant has not met her burden of proving she voluntarily quit her employment for good cause attributable to employer. Benefits are denied.

**DECISION:**

The September 3, 2019 (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit her employment without good cause attributable to employer. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Decision Dated and Mailed

acw/rvs