

REASONING AND CONCLUSIONS OF LAW:

This case involves a voluntary quit. Iowa Code Section 96.5(1) states:

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.

Under Iowa Administrative Code 871-24.26:

The following are reasons for a claimant leaving employment with good cause attributable to the employer:

24.26(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifying issue. This would include any change that would jeopardize the worker's safety, health, or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine of the job would not constitute a change of contract of hire.

...

24.26(4) The claimant left due to intolerable or detrimental working conditions.

Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code section 96.2. *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993)(citing *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986) "[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.* Where multiple reasons for the quit, which are attributable to the employment, are presented the agency must "consider that all the reasons combined may constitute good cause for an employee to quit, if the reasons are attributable to the employer". *McCunn v. EAB*, 451 N.W.2d 510 (Iowa App. 1989)(citing *Taylor v. Iowa Department of Job Service*, 362 N.W.2d 534 (Iowa 1985)).

Meanwhile, in Iowa Administrative Code 871 rule 24.25 sets out quits that shall be presumed to be without good cause including:

24.25(18) The claimant left because of a dislike of the shift worked.

...

24.25(22) The claimant left because of a personality conflict with the supervisor.

...

24.25(28) The claimant left after being reprimanded.

...

24.25(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

The Claimant has failed to prove that she was subjected to intolerable or detrimental working conditions. Instead she was being required to work under the conditions she had been working and during the shifts she had been working. It is perfectly reasonable for the Employer to deny the request for a shift *change* when other affected workers objected to the change. And it is reasonable, and common, that employees with more seniority get the more desirable shifts. This is not marked unfairness such as might be good cause for quitting. The conditions and shifts under which the Claimant worked did not rise to the level of being detrimental.

Further, the Employer's interactions with the Claimant were not detrimental working conditions, even when the Employer gave her a bad review. Such criticisms of performance are to be expected from employers, and while sufficiently unjustified and/or unduly harsh criticism may rise to the level of harassment, that is simply not the case here. See *Wolfe v. Iowa Unemployment Comp. Comm'n*, 232 Iowa 1254, 7 N.W.2d 799 (Iowa 1943) ("although appellee's work was hard, she was required to do no more than the average chambermaid throughout the country and other chambermaids in said hotel"). The poor evaluation was not a detrimental working condition, the manner of the discussion about it did not rise to this level, and the Claimant's conflicts with her supervisor have not been shown to rise to this level either.

Neither taken individually nor together do the Claimant's various complaints constitute good cause for quitting.

DECISION:

The administrative law judge's decision dated January 15, 2015 is **REVERSED**. The Employment Appeal Board concludes that the Claimant quit but not for good cause attributable to the employer. Accordingly, she is denied benefits until such time the Claimant has worked in and was paid wages for insured work equal to ten times the Claimant's weekly benefit amount, provided the Claimant is otherwise eligible. See, Iowa Code section 96.5(1)"g".

The Board remands this matter to the Iowa Workforce Development Center, Claims Section, for a calculation of the overpayment amount based on this decision.

A portion of the Employer's appeal to the Employment Appeal Board consisted of additional evidence (documents) which was not contained in the administrative file and which was not submitted to the administrative law judge. While the appeal and additional evidence were reviewed, the Employment Appeal Board, in its discretion, finds that the admission of the additional evidence is not warranted in reaching today's decision.

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