

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DORLISA D SMITH
Claimant

EASTERN IOWA SLEEP CENTER LLC
Employer

APPEAL 18A-UI-04815-LJ

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/25/18
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.25(6) – Quit Due to Inability to Work with Other Employees
Iowa Admin. Code r. 871-24.25(28) – Quit Following Reprimand

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 18, 2018 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit following a reprimand. The parties were properly notified of the hearing. An in-person hearing was held in Cedar Rapids, Iowa, on May 9, 2018. The claimant, Dorlisa D. Smith, participated. The employer, Eastern Iowa Sleep Center, L.L.C., participated through Lisa Gleason, Administrative Director; and Melissa Walsh, Clinical Director. Claimant's Exhibits 1 and 2 and Employer's Exhibits A through E were received and admitted into the record.

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, most recently as a polysomnographic technician, from December 18, 2017 until February 15, 2018, when she quit. On claimant's final day of work, she had a meeting with Gleason and Walsh about communication issues. Claimant had displayed a pattern of inconsistent communication, and the employer wanted to meet with her to clarify a recent issue she had with her trainer and to ensure consistent communication going forward. During this meeting, Gleason made a comment about appropriate work attire and told claimant that she should not dress in a way that gave patients a reason to look at her. Claimant was also given some coaching about her performance. The parties agreed that Gleason would document what occurred in their meeting and then claimant would meet with Walsh after the tech meeting to sign the documentation.

Claimant met with Walsh after the tech meeting occurred. She was upset and initially did not want to sign the documentation, as it was disciplinary in nature. Claimant asked what would happen if she did not sign the documentation, and Walsh explained that a copy would remain in her personnel file regardless. Claimant then asked what would happen if she wanted to quit.

Walsh said that staffing issues were her responsibility and claimant did not need to worry about the patients. Claimant asked if she had to give any notice and Walsh told her that was up to her. Claimant then quit her employment. She submitted a resignation letter. (Exhibit C) Continued work was available, had claimant not quit her employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from employment was without good cause attributable to the employer. Benefits are withheld.

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. 871-24.25 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:

(6) The claimant left as a result of an inability to work with other employees.

...

(28) The claimant left after being reprimanded.

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). Here, the average employee would not have felt compelled to quit her employment under these circumstances. Gleason's comment about claimant's work attire was inappropriate and objectionable, as no female is ever responsible for another person's decision to leer at, harass, or assault her. However, that comment on its own is not sufficiently intolerable to justify claimant quitting her job. 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). Claimant told the employer she wanted to quit, she submitted a letter of resignation, and she ended her employment. Claimant's decision to quit her employment was without good cause attributable to the employer. Benefits are withheld.

DECISION:

The April 18, 2018, (reference 01) unemployment insurance decision is affirmed. Claimant separated from employment 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.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn