

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

LAURA S SHROUT
Claimant

COLLINS MAUS LLC
Employer

APPEAL 15A-UI-05989-H2
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/26/15
Claimant: Respondent (1)

Iowa Code § 96.5(1) – Voluntary Leaving
871 IAC 24.26(4) – Intolerable Working Conditions

STATEMENT OF THE CASE:

The employer filed an appeal from the May 13, (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. An in person hearing was held on July 27, 2015. Claimant participated. Employer participated through William Collins, Owner. Employer's Exhibit One was entered and received into the record.

ISSUES:

Did the claimant voluntarily quit her employment without good cause attributable to the 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 cook beginning in October 20, 2014 through April 18, 2015 when she voluntarily quit.

The claimant voluntarily quit because she did not like how she was being treated by her coworkers, but primarily by one of her fellow cooks, Alex. Alex was not a supervisor, but would "yell" at the claimant that she had not completed her assigned duties. It was not up to Alex to determine whether or not the claimant had completed her job duties to his satisfaction. The claimant was working more slowly than others which caused the other cooks to become frustrated with her. The claimant had been brought into the business by the head chef Mike. When Mike stepped down as head chef in February 2015 the others began to treat her even more poorly. The new head chef and sous chef would not address her complaints or issues, nor would they provide her with the additional training she had been promised and requested.

The claimant sustained a work related injury in the form of a cut to her knuckle which in part contributed to her working more slowly than others. It also prohibited her from completing some of her assigned job duties. She complained to the co-owner Mary and to the head chef, Ben and the sous chef Nic. Mary told her Alex was just young and immature and to ignore him.

The owner knew about the issues, but took no action to correct Alex or to stop him from treating the claimant disrespectfully. When the claimant complained to the head chef, and the sous neither of them took any action to address her concerns.

The claimant was supposed to be trained on how to work different stations, but was not given the promised training. She was assigned to work stations she had not been given any training on, then the other cooks, predominantly Alex would freeze her out by not talking to her during the work shift or complain that she was not accurately performing her duties. The claimant was set up to fail. Clear constant communication was necessary among the employees for them to complete their job duties. The coworker's failure to communicate with the claimant and her lack of training led to her not being able to timely complete her job duties.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment with good cause attributable to the employer.

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.

Generally notice of an intent to quit is required by *Cobb v. Employment Appeal Board*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Employment Appeal Board*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Employment Appeal Board*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). These cases require an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. Accordingly, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added, however, 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 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. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

The claimant's concerns were not addressed. Being told to ignore a coworker who yells, belittles and criticizes is not an adequate solution to the problem. Additionally, it was the claimant's injury in part that led to her inability to be able to complete the job duties. The claimant had no discipline prior to her discharge. The employer's allegations at the time of the hearing are not credible in light of their failure to address any problems prior to the claimant quitting. The claimant has established that Alex in particular created an intolerable work

environment for claimant that gave rise to a good-cause reason for leaving the employment. Benefits are allowed.

DECISION:

The May 13, 2015, (reference 01) decision is affirmed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

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