

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JESSICA S GOETZ
Claimant

TLH CLEANING LLC
Employer

APPEAL 22A-UI-04179-DH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/20/21
Claimant: Appellant (2)

Iowa Code § 96.5(1) - Voluntary Quit
Iowa Code § 96.5(2)a - Discharge for Misconduct
Iowa Admin. Code r. 871-24.26(4) - Intolerable Working Conditions

STATEMENT OF THE CASE:

Claimant/appellant, Jessica Goetz, filed an appeal from the February 1, 2022, (reference 10) unemployment insurance decision that denied claimant benefits due to her 12/25/21 voluntarily quit for personal reasons. The parties were properly notified about the hearing. A telephone hearing was held on May 11, 2022. Claimant personally participated. Employer, TLH Cleaning, LLC, participated through Ted Hammes, president. Judicial notice was taken of the administrative record.

ISSUE:

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having hear the testimony and reviewed the evidence in the record, the administrative law judge finds: Claimant was employed part-time with a varied schedule, with a job title of maintenance. Her first day of work was sometime in October 2016. Her last day worked was December 25, 2021, when she quit.

Employer, through Mr. Hammes, talks down to claimant, calls names, treats her unprofessionally and makes her uncomfortable. He has done this to the point that she has pending claims before the Iowa Civil Rights Commission regarding harassment, unequal pay, reduction in pay, failure to promote and retaliation. This was filed August 31, 2021. The conduct was many acts in a week, almost daily. Texting that she was worthless, incompetent. Mr. Hammes would park his car so he could see claimant at work and watch her work many times.

Mr. Hammes either denied the behavior/conduct or attempted to explain it away. To issues he did agree with is one time he yelled at the claimant that "You are the only bitch I treated this way." He also agrees that of all of his employees at TLH Cleaning, LLC, which are over 50, when he handed out gift cards near Christmas that claimant was the only one to not receive a gift card.

The gift cards were handed out in such a manner that it singled out claimant as not receiving a gift card. If this act was the singular act, it may not mean much, but coupled with everything else, it is indicative of the behavior of employer.

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.

Iowa Code section 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.

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). 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).

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. Empl. Appeal Bd.*, 451 N.W.2d 510 (Iowa App. 1989) (*citing Taylor v. Iowa Dept. of Job Serv.*, 362 N.W.2d 534 (Iowa 1985)). "An employee may choose to leave employment for several reasons, with each reason important in the decision to quit." *Taylor*, 362 N.W.2d at 540.

Claimant did not want to remain working where conditions were intolerable due to the owner's behavior, to be constantly belittled, demeaned, singled out for differential treatment. To be told she is a "bitch" by the employer and have admitted to her that she is the only one treated in a particular manner. Being singled out and embarrassed as the only one to not receive a gift card. Claimant's leaving was for good-cause reasons attributable to the employer according to Iowa law. The voluntary quit with good cause effective December 25, 2021.

DECISION:

The February 1, 2022, (reference 10) unemployment insurance decision denying benefits is **REVERSED**. Claimant quit with good cause attributable to employer and therefore benefits are allowed provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.



Darrin T. Hamilton
Administrative Law Judge

June 30, 2022
Decision Dated and Mailed

dh/kmj