

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JANET K FULLER
Claimant

YELLOWBOOK INC
Employer

APPEAL 16A-UI-01311-CL

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/27/15
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 1, 2016, (reference 01) unemployment insurance decision that denied benefits based upon a voluntary quit. The parties were properly notified about the hearing. A hearing was held in Cedar Rapids, Iowa on March 30, 2016. Claimant participated personally and through witness Alison Moore. Employer participated through associate sales manager, Kyle Ducker, human resources generalist, Maria Gaffney, and sales manager, Michael Holm. Claimant's Exhibit A through H and Z were received.

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 as a telephone services consultant from June 8, 2015, and was separated from employment on November 24, 2015, when she resigned.

As a telephone services consultant, claimant was paid an hourly wage and commission on sales. Claimant was subject to performance based requirements; she was required to sell 2.25 websites per week.

In early August 2015, claimant was assigned to general manager, Michael Holm's team. Team members were seated in cubicles situated in groups of four. All occupied groups of cubicles were full when claimant was added to the team, so she was added to a new set of cubicles. She was the only employee sitting in the group of cubicles. Claimant complained about this right away. Holm informed claimant that other employees would be assigned to sit next to her as they were added to the team. During the remainder of claimant's employment, only one person briefly sat in the cubicles because all other newly hired employees were assigned to other teams.

Employer provided its employees leads for sales. There were different classifications of leads. New employees were assigned a certain type of lead, such as “new connects,” “low-scored websites,” and “non-mobile websites.” If employees met their sales objectives for two or three months in a row, they were assigned more favorable leads. Claimant was never assigned more favorable leads because she did not meet her sales objectives. Holm assigned some leads to only individuals who had completed print training. Claimant was not assigned those leads as team members assigned to Holm who had not yet completed print training were not scheduled to do so until October 23, 2015. Claimant was absent on October 23, 2015, so she did not attend the training. Claimant complained about issues involving assignment of leads on a regular basis.

Holm had a practice of posting weekly sales figures for his team members and putting a “frowny face” next to anyone who did not meet their objectives. One week Holm put a frowny face next to claimant’s name. Claimant was the only person who did not meet her sales objective that week. Claimant complained to Holm and he discontinued the practice. Claimant also felt that Holm laughed at her and frequently said “I don’t care” when she tried to speak.

Claimant brought concerns to employer’s human resource department on October 22, 2015. Claimant complained that Holm made inappropriate comments to her, she was ignored by supervisors, and that she had not received print training. Human resources generalist Maria Gaffney responded to claimant on October 29, 2015, by stating Holm had been spoken to regarding any inappropriate comments, the human resource department confirmed her supervisors were there to support her, additional opportunities for training existed, and the human resource department confirmed that the print training had been offered on October 23, 2015.

On November 5, 2015, claimant was given a final written warning for not meeting performance requirements. Claimant continued to be assigned the same types of leads. Her sales did not improve.

On November 24, 2015, claimant decided she could no longer tolerate the situation and resigned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant’s separation from the employment was without 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. 871-24.25(21) and (22) 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:

(21) The claimant left because of dissatisfaction with the work environment.

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

Here, claimant resigned because she did like the work rules and her supervisor. While claimant claims she was discriminated against, there is no evidence that the work rules were applied to her differently than others on her team. Employer had a valid business reason for claimant's seat assignment.

Claimant claims the work environment was intolerable because of the way Holm treated her. The claimant has not demonstrated that a reasonable person would find the work environment detrimental or intolerable. *O'Brien v. EAB*, 494 N.W.2d 660 (Iowa 1993); *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (FL App. 1973). Holm's comments would not be offensive to the average person. Instead, claimant has demonstrated she had a personality conflict with Holm. But that is not a good cause reason for resignation that is attributable to employer. When claimant did complain about Holm's actions, employer responded to those complaints reasonably.

In summary, claimant has not established she resigned for a good cause reason attributable to employer and benefits are denied.

DECISION:

The February 1, 2016, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the 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.

Christine A. Louis
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Decision Dated and Mailed

cal/pjs