

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

DARLA PYTLESKI
Claimant

APPEAL NO: 12A-UI-09531-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**CENTRAL TRANSPORT INC
CENTRAL ENTERPRISE INC**
Employer

**OC: 07/08/12
Claimant: Respondent (5)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Central Enterprise, Inc. (employer) appealed an unemployment insurance decision dated August 1, 2012, reference 02, which held that Darla Pytleski (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on Thursday, August 30, 2012. The claimant participated in the hearing. The employer did not participate, because the administrative law judge was unable to reach the witnesses at the number provided. The telephone number provided by the employer would not accept blocked calls, even after the administrative law judge dialed *82 before dialing the number, as instructed by the message at that number. The Appeals Staff was notified and the administrative law judge delayed the start of the hearing until 12:12 p.m. The record closed at 12:38 p.m. with no contact by the employer. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed full-time for this family owned trucking company from October 1, 2005 through July 6, 2012. She was the office manager but most recently worked as the dispatcher. The claimant took direction from owner Ruby Harris, her husband Leland Harris, and her son Richard Harris. Son Ryan Harris also worked there for a period of time, but was not working at the time of the claimant's separation. The company was originally called Harris Transit and the name changed in approximately January 2006 to Central Transport and then to Central Enterprises in approximately August 2011.

The claimant quit due to the repeated abuse and mistreatment by Ruby Harris. She gave her written resignation to the employer on June 18, 2012 after Ruby screamed at her about the

phone system. The claimant's intended separation date was set as June 29, 2012. She did not have a problem or any difficulty with any other family member. Ruby was aggressive and a bully; she wanted it done her way even when two other family members gave the claimant different directions. The claimant testified that Ruby believes that she "owns" her employees "24-7." The claimant complained to the other family members and they always said, "Well that's just Ruby" and other similar comments. The claimant was told that things would change but Ruby had her own way of doing things.

Ruby frequently yelled at the claimant while the office door was open so everyone else in the shop could hear it. Her treatment of the claimant was degrading and humiliating. The worst occurred in March 2011 when Ruby "damned" her. Richard asked the claimant to do something and when Ruby became aware of it, she physically came across the claimant's desk and swore in her face yelling, "God damn you! You cannot do what he is asking you to do!" The claimant continued working because she needed the money and she liked her job with the exception of any interactions with Ruby. Additionally, Ruby left each year during the winter so Richard took over and the claimant did not have to deal with her for a period of time.

The claimant put in her resignation and the other employers agreed to keep Ruby away from the office. However, Ruby would not stay away and the day after the claimant put in her resignation, Ruby came into the office and wanted to talk. The claimant said she did not want to talk but Ruby insisted. The claimant said she was not going to listen and got up to go to the door. Ruby went to the door, slammed it and yelled, "You better not leave!" The claimant reached for the door and Ruby used her forearm to push her shoulder. The claimant tried to reach for the door a second time and Ruby pushed her again. The claimant then yelled, "Richard! Would you please come up and get your mother!"

Richard had to come up and physically move his mother out of the way so the claimant could leave. About three hours later, the claimant returned after speaking with Richard. He asked her to continue working and she agreed on the condition that Ruby stay away from her. The employer did not get a replacement until June 27, 2012 and this person was Richard's wife, who had worked there before but had no experience with dispatching and the new system. Richard asked the claimant to work another week to help train his wife and the claimant agreed.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

The claimant gave her notice to quit due to intolerable work conditions. Ruby's aggressive actions on June 19, 2012 were demonstrative of how she handled everything. Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993).

The evidence provided by the claimant does rise to an intolerable and detrimental work environment. It is her burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. The claimant has satisfied that burden and benefits are allowed.

DECISION:

The unemployment insurance decision dated August 1, 2012, reference 02, is modified in favor of the appellant. The claimant voluntarily quit her employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw