

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

EMILY C STEIER

Claimant

CENTRAL IOWA KFC INC

Employer

APPEAL 21A-UI-22336-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/22/21

Claimant: Respondent (1)

Iowa Code § 96.5(1) – Voluntary Quitting

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

STATEMENT OF THE CASE:

Employer filed an appeal from the September 27, 2021 (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified of the hearing. A telephone hearing was held on November 30, 2021. Claimant participated. Employer participated through Julie Mangold, Area Supervisor. Employer's Exhibit 1 was admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant's separation was a voluntary quit without good cause attributable to employer.
Whether claimant was overpaid benefits.

Whether claimant should repay those benefits and/or whether employer should be charged based upon its participation in the fact-finding interview.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant was employed as a full-time Assistant Manager from August 25, 2020 until August 21, 2021, when she resigned due to ongoing harassment by a co-worker. The co-worker yelled at claimant, used profanity, and called claimant names like "retard" and "fat heifer."

On August 21, 2021, the co-worker continued his harassment. Claimant left the building to call the Area Supervisor to report the matter. The co-worker followed claimant outside and then blocked claimant's reentrance to the building. Claimant resigned effective immediately.

Claimant had informed employer of the ongoing issues with her co-worker. Employer could not corroborate claimant's account and, therefore, did not discipline the co-worker. Employer had continuing work available for claimant if she had not quit. Claimant's job was not in jeopardy.

Claimant filed an initial claim for benefits effective August 22, 2021 but no ongoing weekly claims. No benefits have been paid to claimant since August 22, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit her employment for good cause attributable to employer. Benefits are allowed provided claimant is otherwise eligible.

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer. Iowa Code § 96.6(2).

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 voluntarily quit her employment due to ongoing harassment by a co-worker, which rose to the level of an intolerable working condition. Claimant has met her burden of proving good cause attributable to employer. Benefits are allowed provided claimant is otherwise eligible.

Because claimant's separation is not disqualifying, the issues of overpayment, repayment and charges are moot.

DECISION:

The September 27, 2021 (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit with good cause attributable to employer. Benefits are allowed provided claimant is otherwise eligible. The issues of overpayment, repayment and charges are moot.



Adrienne C. Williamson
Administrative Law Judge
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December 9, 2021
Decision Dated and Mailed

acw/ACW