

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CLAIRE F SMELTZER
Claimant

IA DEPT OF JUDICIAL ADMINISTRATION
Employer

APPEAL 18A-UI-00975-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/31/17
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 19, 2018, (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit her employment. The parties were properly notified of the hearing. A telephone hearing was held on February 14, 2018. The claimant, Claire F. Smeltzer, participated. The employer, Iowa Department of Judicial Administration, participated through witnesses Julie Carlin, Clerk of Court; and Kathy Gaylord, District Court Administrator; and Malia Maples of Employers Edge, L.L.C., represented the employer. Iowa District Court Chief Judge Marlita Greve observed the hearing. Claimant's Exhibits A, B, and C and Employer's Exhibits 1 through 35 were received and admitted into the record.

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, most recently as a judicial specialist 2, from October 26, 2015, until January 4, 2018, when she quit. Claimant did not report to work on December 27, 2017. She sent the employer an email that morning to report that she would not be coming to work. She stated, "I am not going to call in or talk to anyone so that I can be scolded like a child..." She also indicated that the employer should discharge her from employment if it had an issue with her not calling in to report her absence. Carlin replied to claimant's email later in the afternoon. She stated, "Please call me and let me know daily whether you will be in to work so I can make the necessary adjustments in scheduling... You can leave a message with a supervisor if necessary."

Claimant sent a lengthy email to Carlin, Gaylord, and Brian McKenrick later that evening. In the email, claimant expressed frustration with her work environment and with supervisors questioning her use of leave in the past. She notified the employer she would not be at work the following day, December 28, and she reminded the employer of a scheduled vacation day on December 29. She wrote in her email, "I am sorry to have things turn out this way because I

truly enjoy my job and the various aspects of it... This was an extremely hard decision to make because I absolutely LOVE my job, but the people in that office have ruined that experience..."

Claimant was scheduled to work on January 2, 3, and 4, 2018. She did not come to work any of these days, and she did not call in and notify the employer that she would not be at work. Claimant received a copy of the employer's Personnel Policies. (Exhibit 23) Under section 6.4 of the Personnel Policies, it states: "Any employee who is absent from work for three consecutive workdays without proper notification and authorization may be considered to have voluntarily terminated his/her position." (Exhibit 22)

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from employment was without good cause attributable to the employer. Benefits are withheld.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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(4) 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: ...

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

...

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

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

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. In this case, the average employee in claimant's situation would not have felt similarly compelled to quit her employment under the circumstances. *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). Claimant's December 27 email to the employer shows unequivocal intention to end her employment.

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. In this case, the employer had a rule within its Personnel Policies stating an employee who was absent for three consecutive days without notifying the employer about the absences might be deemed to have voluntarily quit. Claimant received a copy of these Personnel Policies. Claimant was absent from work on January 2, January 3, and January 4, and she did not notify the employer that she would be absent any of these days. The employer has established that claimant voluntarily quit her employment without good cause attributable to the employer. Benefits are withheld.

DECISION:

The January 19, 2018, (reference 01) unemployment insurance decision is affirmed. Claimant separated from 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.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn