

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DEBRA L. SMITH
Claimant

PARKVIEW HOME
Employer

APPEAL 20A-UI-09818-BH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/10/20
Claimant: Appellant (1)

Iowa Code section 96.5(1) – Voluntary Quit

Iowa Administrative Code rule 871-24.25 – Voluntary Quit Without Good Cause Attributable to the Employer

Iowa Administrative Code rule 871-24.26 – Voluntary Quit With Good Cause Attributable to the Employer

STATEMENT OF THE CASE:

The claimant, Debra L. Smith, appealed the June 16, 2020 (reference 01) unemployment insurance decision that denied benefits based upon a finding Smith voluntary quit her job with Parkview Home (Parkview) without good cause attributable to the employer. The agency properly notified the parties of the appeal and hearing.

The undersigned presided over a telephone hearing on September 23, 2020. Smith participated personally and testified. Parkview participated through business office manager Tammy Sinn, who testified. Parkview employees Bev Morris and Linda Hagist testified as witnesses. Claimant's Exhibit A and Employer's Exhibit 1 were admitted into evidence.

ISSUES:

Was Smith's separation from employment with Parkview a layoff, discharge for misconduct, or voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the undersigned finds the following facts.

Parkview hired Smith in September of 2005. At the time of Smith's resignation, she was working full time as the dietary supervisor. Smith resigned effective November 25, 2019.

Mary Quigley was the Parkview administrator and Smith's immediate supervisor. She and Smith had issues. Smith felt that Quigley's criticism of her decisions and job performance was harassment.

Smith testified regarding one example, which she also cited in her letter of resignation. Quigley informed a resident that the resident could have a hamburger cooked so that it was pink in the middle. However, the applicable food guidelines required the burger to be cooked at 155 degrees for 15 seconds, which did not allow for it to be pink in the middle. Quigley and Smith went back and forth until ultimately the State of Iowa Department of Inspections and Appeals advised that Smith's understanding of the guidelines was correct.

In August of 2019, Smith complained about Quigley's behavior. Quigley, Sinn, and Smith met. They decided to implement a performance improvement plan. During the plan, Smith felt Quigley's behavior improved. But then it went back to normal.

After a male employee left employment with Parkview, he alleged sex discrimination. Parkview obtained legal representation. Among other things, the attorney advised Parkview to no longer allow Smith to discipline employees. So Parkview rescinded her authority to discipline employees and Quigley handled such employment actions. Smith took exception to this, believing Quigley was overreaching and interfering with her performance of her job.

Smith was able to endure what she felt were unwarranted "chew-outs" by Quigley if she left the employees under Smith's supervision in the dietary department alone. However, Quigley also began critiquing them, sometimes harshly. Smith felt this was wrong.

The straw that broke the camel's back for Smith followed a training for supervisors in which they were advised not to criticize employees in front of others. Shortly after the training, Quigley berated Smith at the welcome station, in front of others. Smith found the incident humiliating.

For these reasons, Smith submitted her resignation to Parkview on October 24, 2019, effective November 25, 2019. After Smith gave her notice, she worked for Parkview through November 25, 2019.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the undersigned concludes Smith voluntarily left employment with Parkview without good cause attributable to the employer under the Iowa Employment Security Law, Iowa Code chapter 96.

Iowa Code section 96.5(1) disqualifies a claimant from benefits if the claimant quit she job without good cause attributable to the employer. The Iowa Supreme Court has held that good cause requires "real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). Moreover, the court has advised that "common sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.*

According to the Iowa Supreme Court, good cause attributable to the employer does not require fault, negligence, wrongdoing or bad faith by the employer. *Dehmel v. Emp't Appeal Bd.*, 433 N.W.2d 700, 702 (Iowa 1988). Good cause may be attributable to "the employment itself" rather than the employer personally and still satisfy the requirements of the Act. *E.g. Raffety v. Iowa Emp't Sec. Comm'n*, 76 N.W.2d 787, 788 (Iowa 1956).

A burden-shifting framework is used to evaluate quit cases. Because an employer may not know why a claimant quit, the claimant has the initial burden to produce evidence suggesting

the claimant is not disqualified from benefits under Iowa Code section 96.5(1) *a* through *j* and section 96.10. If the claimant produces such evidence, the employer has the burden to prove the claimant is disqualified from benefits under section 96.5(1).

Iowa Administrative Code rule 871-24.25 creates a presumption a claimant quit without good cause attributable to the employer in certain circumstances. Iowa Administrative Code rule 871-24.26 identifies reasons for quitting that are considered for good cause attributable to the employer. Under rule 871-24.25(21), it is presumed a claimant quit without good cause attributable to the employer if the claimant left because of dissatisfactions with the work environment. Rule 871-24.25(22) creates the same presumption if the claimant left because of a personality conflict with the supervisor.

The evidence in this case shows that Smith was dissatisfied with the work environment. She and Quigley, her supervisor, did not get along. Quigley often critiqued Smith in ways that Smith felt were unfair. Quigley also yelled at her and the employees under her supervision on occasion. However, the incidents do not paint the picture of work environment that rose to the level of being intolerable or detrimental under rule 871-24.26(4). Rather, the evidence shows that Quigley and Smith had a personality conflict and Smith quit due to that and her dissatisfaction with the work environment due in large part to her personality conflict with Quigley.

While Smith may have had a very good reason for quitting her job at Parkview, the reasons does not constitute good cause attributable to the employer under Iowa Code section 96.5(1) and rules 871-24.25(21) and 871-24.25(22). Benefits are therefore denied.

DECISION:

Regular Unemployment Insurance Benefits Under State Law

The June 16, 2020 (reference 01) unemployment insurance decision is affirmed. Smith voluntarily left employment without good cause attributable to Parkview. Benefits are withheld until such time as Smith has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Pandemic Unemployment Assistance (PUA) Under the Federal CARES Act

Even though Smith is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the CARES Act. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if Smith is eligible for such compensation for the week claimed.

This decision does not address whether Smith is eligible for PUA. For a decision on such eligibility, Smith must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.**
- For more information about PUA, go to:

<https://www.iowaworkforcedevelopment.gov/pua-information>

- To apply for PUA, go to:

<https://www.iowaworkforcedevelopment.gov/pua-application>

A handwritten signature in black ink, appearing to read "Ben Humphrey", with a stylized flourish extending from the end.

Ben Humphrey
Administrative Law Judge

September 25, 2020
Decision Dated and Mailed

bh/scn