

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

SARAH C HIGBEE  
1621 S MAIN  
CENTERVILLE IA 52544

JIM BUBAN MOTORS INC  
c/o JIM BUBAN  
PO BOX 430  
CENTERVILLE IA 52544

PETE HARNESS CHEVROLET  
17271 HICKORY HILLS RD  
STERLING IL 61081

Appeal Number: 05A-UI-02373-DT  
OC: 02/06/05 R: 03  
Claimant: Appellant (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Sarah C. Higbee (claimant) appealed a representative's March 4, 2005 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Jim Buban Motors, Inc. now known as Pete Harness Chevrolet (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 24, 2005. The claimant participated in the hearing. Jim Buban appeared on the original employer's behalf; Jeffrey Woodward appeared on behalf of the subsequent owner/employer, Pete Harness Chevrolet, and presented testimony from one other witness, Jacob Wilson. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the original employer/owner, Jim Buban Motors, Inc., on April 27, 1999. She worked full time as office manager in the employer's Centerville, Iowa car dealership. Effective November 1, 2004, the dealership was sold in its entirety to Pete Harness Chevrolet, which continued the operation at the same location and with the same employees. The claimant remained office manager at her same rate of pay, which was on a salary basis of \$500.00 per week.

After Pete Harness assumed ownership, there were times the claimant was expected to work beyond her normal 8:00 a.m. to 5:00 p.m. schedule, in part because there were some transitions and transfers occurring within the business that deprived the claimant of some of the office assistance that she would normally have. Toward the end of January 2005, the claimant began to consider quitting due to the shortage of assistance and because the collegial work environment no longer existed; however, she did not express her thoughts to the employer.

On February 9, 2005, at approximately 10:00 a.m. the claimant had an approximately one-hour phone conversation with the new owner, including some concerns regarding a \$150,000.00 discrepancy in the business' checkbook. After the discussion, the claimant was somewhat upset, and was even more upset when Mr. Woodward, the general manager, made a remark about the claimant having problems because of not staying the night before and finishing the work on her desk. The claimant left the dealership to go to the bank. When she returned, she had decided that she was going to quit. Mr. Woodward had left for a personal errand, so the claimant gave her keys to Mr. Wilson, the business manager, and left.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit, and if so, whether it was for good cause attributable to the employer.

Iowa Code Section 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.

871 IAC 24.25 provides that, 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 claimant did express her intent not to return to work with the employer. A voluntary leaving of employment requires an intention to terminate the employment relationship. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). The claimant did exhibit the intent to quit and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (23). Quitting because a reprimand has been given is not good cause. 871 IAC 24.25(28). While the claimant's work situation was perhaps not ideal at that point in time, she has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). Further, in order for a reason for a quit to be attributable to the employer, an individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. Swanson v. Employment Appeal Board, 554 N.W.2d 294 (Iowa 1996), Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). The claimant did not provide this notice and opportunity to the employer. The claimant has not satisfied her burden. Benefits are denied.

DECISION:

The representative's March 4, 2005 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of February 9, 2005, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

ld/kjf