

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MEGAN M HOSKINS
Claimant

BLACK HAWK COUNTY
Employer

APPEAL 18A-UI-04169-JP-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/11/18
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 26, 2018, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on April 27, 2018. Claimant participated. Mike Howell participated on claimant's behalf. Employer participated through human resources director Deb Bunger, division manager Eileen Daley, and human resources specialist Amanda Fefenmeyer. Claimant Exhibit A was admitted into evidence with no objection. Employer Exhibit 1 was admitted into evidence with no objection.

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 as an environmental health officer from January 4, 2011, and was separated from employment on March 9, 2018, when she quit.

The employer has a policy that explains how employees may file a complaint with the employer or the union regarding a hostile work environment. The employer also explains the procedure during new hire orientation.

On February 9, 2018, the employer posted a part-time position for a Community Program Coordinator. Claimant Exhibit A. Claimant applied for this position. On February 15, 2018, the employer notified claimant that the wrong job description had been posted for the position, so the position was going to have to be re-posted. Claimant Exhibit A.

On February 19, 2018, claimant met with her direct supervisor, program manager Jared Parmater. Claimant Exhibit A. Mr. Parmater discussed with claimant ideas about "a template for the Healthy Homes portion of the HUD grant." Claimant Exhibit A. Mr. Parmater informed claimant he had a meeting on February 23, 2018 regarding the template. Claimant Exhibit A.

Claimant offered to go with Mr. Parmater to the meeting on Friday, but he told her that he was the only one going. Claimant Exhibit A.

On February 20, 2018, the employer re-posted the Community Program Coordinator part-time position with the correct job description. Claimant Exhibit A. Claimant again applied for this position.

On February 22, 2018, claimant discovered that Mr. Parmater had approached a coworker about applying for the part-time position that claimant had applied for. Claimant also discovered that three coworkers were going to the Friday meeting with Mr. Parmater. Claimant approached Mr. Parmater about why she was not going to the meeting. Claimant testified that Mr. Parmater screamed at her during this meeting. Ms. Daley testified that Mr. Parmater told her that claimant raised her voice and was visibly upset that she had not been invited to the meeting. See Employer Exhibit 1. Mr. Parmater had the authority to determine which employees went to the meeting. Ms. Daley testified that Mr. Parmater denied yelling or screaming at claimant. After the meeting, Mr. Parmater waited a few minutes and then went to claimant's office to make sure she was ok.

On February 23, 2018, claimant provided the employer a letter of resignation effective March 9, 2018. Employer Exhibit 1. Claimant stated in her resignation letter: "Thank you for the opportunities for professional and personal development that you have provided me during the past seven years. I have enjoyed working for the Health Department and appreciate the support provided to me during my employment." Employer Exhibit 1. Claimant did not provide the employer a reason why she was resigning in her resignation letter. See Employer Exhibit 1. The employer accepted claimant's resignation and allowed her to work through March 9, 2018.

On February 26, 2018, Ms. Daley, Mr. Parmater, claimant, and a union steward met to discuss two different matters. Employer Exhibit 1. The first matter the employer discussed was claimant's behavior on February 22, 2018. Employer Exhibit 1. Mr. Parmater stated claimant had raised her voice and was visibly upset that she had not been invited to a meeting with an outside agency. Mr. Parmater denied yelling or screaming at claimant. Claimant denied yelling during the February 22, 2018 meeting. The employer intended to give claimant a verbal warning for this incident, but the union steward successfully requested that it merely be a counseling session since claimant had already resigned. Ms. Daley reinforced to claimant that the program manager had the authority to determine who will attend meetings. Employer Exhibit 1. The second part of the meeting was about claimant's resignation and her final two weeks of employment.

Claimant's last day of work was March 9, 2018. The employer had work available for claimant had she not resigned. The employer did not tell claimant she had to quit or she would be fired. Claimant did not file a complaint with the employer that the environment was hostile or about Mr. Parmater and Ms. Daley's conduct.

REASONING AND CONCLUSIONS OF LAW:

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

It is the duty of an administrative law judge and the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge, as the finder of fact, may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162,

163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other evidence you believe; whether a witness has made inconsistent statements; the witness's conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996).

This administrative law judge assessed the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and used my own common sense and experience. This administrative law judge reviewed the exhibits that were admitted into evidence. This administrative law judge finds the employer's version of events to be more credible than claimant's recollection of those events.

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(21) 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:

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

Iowa Admin. Code r. 871-24.25(22) 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:

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

Iowa Admin. Code r. 871-24.25(37) 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:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

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. *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 argument that she quit because of a hostile work environment is not persuasive. Claimant alleged in the summer of 2017 that Ms. Daley told her that she was not qualified for a job she had applied for. See Claimant Exhibit A. Claimant also alleged Ms. Daley told her that there was not "anything special about [her] having [her] lead certifications[.] Claimant Exhibit A. Ms. Daley credibly denied claimant's allegations. Claimant also failed to establish that a reasonable person would find Mr. Parmater's conduct during their meeting on February 22, 2018 created a hostile work environment. Ms. Daley credibly testified that Mr. Parmater had reported that claimant had raised her voice and was visibly upset. Ms. Daley's testimony was corroborated by the employer having to have a meeting on February 26, 2018 with the intent to issue a warning regarding the incident. Ms. Daley also testified that Mr. Parmater denied screaming at claimant during the meeting. Furthermore, claimant's decision to quit because she did not agree with the supervisor about various issues, including the supervisor asking another employee to apply for a job that she had applied for and the supervisor taking other employees to a meeting she wanted to attend, was not for a good cause reason attributable to the employer. Mr. Parmater had the authority to determine which employees should attend what meetings. Mr. Parmater also had the discretion to approach employees about applying for open positions if he felt they would be a good fit.

Claimant has not demonstrated that a reasonable person would find the work environment detrimental or intolerable. *O'Brien v. EAB*, 494 N.W.2d 660 (Iowa 1993); *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). Claimant has not met her burden of proving that her voluntary leaving was for good cause attributable to the employer. While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The March 26, 2018, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/rvs