

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

SHANNON R ROBINSON

Claimant

and

CENTERVILLE IRON & METAL INC

Employer

HEARING NUMBER: 17BUI-08492

**EMPLOYMENT APPEAL BOARD
DECISION**

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-1, 24.26-4

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The Employer appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. A majority of the Appeal Board, one member dissenting, finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board **REVERSES** as set forth below.

FINDINGS OF FACT:

The Claimant, Shannon R. Robinson, worked for Centerville Iron & Metal, Inc. from January 2012 through July 15, 2016, initially as a secretary, then promoted to office manager. (6:44-7:33; 55:06) Beginning in January of 2016, the Claimant experienced marital problems for which she was separated from her husband between January and July of 2016 (22:41-22:50; 23:38-23:50; 37:07-37:15) She soon thereafter moved in with Scott Daggett (yard manager) (1:42:55; 1:45:20-1:45:43) (February of 2016 through May 21, 2016; 1:36:26-1:36:28; 1:39:06) with whom she'd been having an intimate relationship (46:52-47:23; 1:20:30-1:20:35; 1:33:23-1:33:38; 1:34:10-1:35:04) and who became very possessive of her. (20:58-21:39) Scott posted "No sexual harassment" signs in the office to fend off people who flirted with Mr. Robinson. (1:50:08-1:50:40; 1:52:49-1:53:14)

Initially, the Employer (Brian Fitzsimmons, the owner/president) (1:19:53-1:20:25) who resides in Texas, and shows up a couple times a month (1:43:04), did not know about their relationship. (1:35:20-1:35:29; 1:46:00-1:46:05) Also during this time, Ms. Robinson often confided in the Employer who sometimes offered financial assistance to the Claimant after her separation, i.e., retainer fee for an attorney, which she initially declined. (23:35; 23:59-24:11; 25:27-25:43; 26:03-26:30; 1:09:08-1:10:48; 1:23:50-1:23:53; 1:25:47)

The Claimant texted the Employer on March 16, 2016 to request that they discontinue discussing her personal problems at work, as she believed she was developing an ulcer because of all the stress she was experiencing resulting from the dissolution. (36:07-37:18; 1:25:10-1:26:17; 1:26:41; Exhibits 9-11) Ms. Robinson developed a defensive posture when the Employer asked questions pertaining to work involving her accountability, i.e., work orders, property tax payment, inter alia, which the Employer attributed to her unsettled personal life. (1:12:32-1:14:21; Exhibit 2)

During the morning of May 21, 2016, Scott called the Employer to tell him Ms. Robinson was leaving him (Scott) and that she had accused the Employer of improper advances indicating she had proof, but never showed it to Scott. (1:43:35-1:43:45; 1:46:39-1:47:00) Scott never observed any inappropriate behavior by the Employer toward the Claimant. (1:44:08-1:45:17) He also indicated that Ms. Robinson told him she was planning to seek compensation. (1:03:03-1:04:00; 1:36:05-1:36:53; 1:39:55-1:39:58) The Employer believed Scott was simply upset about the relationship. A couple hours later, Ms. Robinson called the Employer about issues that developed with Scott Daggett, which the Employer partially recorded. (46:08-46:25; 1:02:21-1:02:52; 1:04:14-1:05:00; Exhibit 7) Ms. Robinson indicated during their conversation that she had no problem with the Employer and wanted to move past the issues she had with Scott. (Exhibit 7)

On June 29, 2016, the Claimant sent a text to the Employer requesting time off due to having several daily anxiety attacks because of problems in her life, but she never mentioned any problems with the Employer. (39:25-40:35; 50:20-50:30) Ms. Robinson liked her job and valued the scheduling flexibility that accommodated her childcare needs. (11:59-12:23; 44:20-44:37; 50:35-51:12)

On June 15th, 2016 at approximately 8:30 a.m., the Employer called his office to speak with Ms. Robinson about a large order of steel he'd placed and was expecting to come in. (56:26-57:16, Exhibit 1) The Claimant had not yet arrived, and according to Scott, her regular hours were from 9:00- 9:15 a.m. until approximately 2:30-3:00 p.m., which was about 32 hours weekly. (57:25-58:00) The Employer became alarmed about what he perceived was a discrepancy in her timecard records and had the records pulled. (57:31-57:35; 59:54-1:00:13) The Employer noted that Ms. Robinson's timecard showed that she had manually entered her time of arrival and exit (signified by 'E'), as opposed to digitally punching in the timecard. (58:30-59:47) Before the Employer could get a chance to speak to Ms. Robinson, he received her resignation by e-mail, which came as a surprise. (1:28:06-1:28:30) Later, she contacted the Employer offering to stay on for a few days to assist the Employer with training Scott on the computer. (41:55-42:30)

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits: *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(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...

The claimant left because of dissatisfaction with the work environment.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code §96.6(2) (amended 1998).

The findings of fact show how we have resolved the disputed factual issues in this case. We have carefully weighed the credibility of the witnesses and the reliability of the evidence. We attribute more weight to the Employer's version of events. The Claimant was a four-year employee who argues that she started experiencing sexual harassment from her Employer within the last year of her employment. Yet, the record contains no corroborating evidence to support her allegations. According to the Employer's testimony, Ms. Robinson never complained that she experienced any discomfort from the Employer during the time in question. Additionally, when he specifically asked if she had any issues with him during their phone conversation when she complained about Scott, she reassured him that there were no issues. The Employer provided a credible and plausible explanation as to why he offered the Claimant financial assistance, which he indicated was made in good faith, and not to obtain any inappropriate favors from her.

What is clear from this record is that for the past year of her employment, the Claimant's personal life was in upheaval due to the combination of her impending divorce and her apparently troubled relationship with her co-worker, with whom she lived throughout most of the time at issue. Her initial denial of the relationship, and subsequent attempt to minimize it, significantly impugned her credibility. Although Ms. Robinson argues that she never complained because she wanted to maintain her employment, it is clear that the stress from her personal life made it difficult for her in the workplace. Her decision to quit was due to problems that arose out of her overwhelming personal life, which interfered with her employment environment, and not the employment itself. If the work environment was so detrimental to Ms. Robinson, she wouldn't have offered to return to train her former co-worker. Based on this record, we conclude that the Claimant failed to satisfy her burden of proof.

DECISION:

The administrative law judge's decision dated December 13, 2016 is **REVERSED**. The Employment Appeal Board concludes that the Claimant voluntarily quit without good cause attributable to the Employer. Accordingly, she is denied benefits until such time she has worked in and was paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Kim D. Schmett

DISSENTING OPINION OF JAMES M. STROHMAN:

I respectfully dissent from the decision of the Employment Appeal Board; I would affirm the decision of the administrative law judge in its entirety.

James M. Strohman

As a final comment, the Employment Appeal Board would note that in weighing the evidence, we are confident that the administrative law judge, who is an ethical officer of the court, did not take into consideration any documents outside this record, as was suggested.

Kim D. Schmett

Ashley R. Koopmans

James M. Strohman

AMG/fnv