

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LOLA PERRY
Claimant

DES MOINES IND COMMUNITY SCH DIST
Employer

APPEAL 20A-UI-06262-HP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/19/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Claimant Lola Perry filed an appeal from a June 8, 2020 (reference 01) unemployment insurance decision that denied benefits based upon her voluntarily quitting work without good cause attributable to the employer, Des Moines Independent Community School District (“Des Moines CSD”). Notices of hearing were mailed to the parties’ last known addresses of record for a telephone hearing scheduled for July 20, 2020. Perry appeared and testified. Olimpia Garduno testified on Perry’s behalf. Rhonda Wagoner appeared on behalf of Des Moines CSD. Exhibits 1 through 4 were admitted into the record. I also took administrative notice of the claimant’s unemployment insurance benefits records maintained by Iowa Workforce Development.

ISSUE:

Did the claimant voluntarily quit the employment with good cause attributable to the employer?

FINDINGS OF FACT:

Perry commenced full-time employment with the Des Moines CSD on August 19, 2013. Perry initially worked as a library associate. From 2016, until she resigned on March 13, 2013, Perry worked as an office manager at Hiatt Middle School. Joseph Green, the principal of Hiatt Middle School, was Perry’s direct supervisor. Eleanor Shirley is an enrollment supervisor for the Des Moines CSD and part of her duties include managing the office managers for the Des Moines CSD.

During her employment, Perry’s relationship with Green deteriorated. Perry complained about Green to Shirley. Perry testified Green was harassing her. The Des Moines CSD has an online procedure for filing complaints of harassment or discrimination. The online complaints are submitted to human resources for investigation. Shirley does not work in human resources. The employee handbook describes the procedure for filing a complaint. Perry acknowledged she received a copy of the handbook when signing onto the computer. Perry did not submit a complaint regarding Green on the online system.

Perry's father passed away on January 3, 2020. She was gone for a week and then took off random days following his death. Perry believed Green was not supportive of her. While she was off, Green asked her to order facial tissues, knowing she was not in the office.

Perry and Garduno worked in the same office. Garduno was the attendance clerk. Garduno testified Green would ignore Perry and direct communication to Perry through Garduno. In the morning, he would come in and ignore Perry and tell Garduno "good morning," and ask how she was.

Perry testified Green would play games with her. He would take her keys off her desk and hide them. Green would claim Perry lost the keys and then say, "[o]h, I happened to find it."

Perry secured full-time employment as an associate with the North Polk Community School District. Perry sent Shirley an electronic mail message with her two-week notice of resignation on March 2, 2020. (Exhibit 1) After receiving the notice, Shirley called Perry to inquire whether she was certain she wanted to quit. Perry testified she knew it was best for her to leave.

Naki Allen with human resources and Green attended a meeting with Perry on March 3, 2020, where she received a three-day unpaid suspension. (Exhibits 2, 3) The suspension notice provided Perry was being disciplined for not meeting attendance expectations, allowing students to sit or stand in the office when they should be in class, hitting a wall after receiving an assigned task, not sending out the birthday list in a timely fashion, due to complaints from parents and personnel she was not answering telephone calls and responding to voicemail, not offering assistance to a staff member regarding payroll assistance, for not providing an update regarding progress of a payment request, not timely accepting a calendar meeting invitation to discuss her mid-year evaluation, failing to return to work following an office manager meeting and then requesting sick leave for the time when she was later observed at a staff gathering at Smash Park, leaving work early to go to her child's daycare without providing details about the amount of time she would be gone and why, treating building staff rudely and not providing customer service when requested, and not communicating when provided projects or assignments. (Exhibit 3) Perry returned to work after the three days and continued to work until she resigned on March 13, 2020. Continuing work was available to Perry and she did not rescind her resignation. Perry was not under the threat of termination. Perry had received an earlier written reprimand on December 4, 2019, for attendance. (Exhibit 4)

Perry's last day was March 13, 2020. Perry did not file a complaint concerning Green with human resources before she resigned.

Due to the development of Covid-19, Perry did not start her employment with the North Polk Community School District.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides an individual "shall be disqualified for benefits, regardless of the source of the individual's wage credits: . . . If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department." The Iowa Supreme Court has held a "voluntary quit" means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer." *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989). A voluntary quit requires "an intention to terminate the employment relationship accompanied by an overt act carrying out the intent." *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). "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).

871 Iowa Administrative Code 24.25(3) and (21) provide:

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 following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

24.25(3) The claimant left to seek other employment but did not secure employment.

24.25(21) The claimant left because of dissatisfaction with the work environment.

871 Iowa Administrative Code 24.26(4) also provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

24.26(4) The claimant left due to intolerable or detrimental working conditions.

Perry testified she quit her employment with the Des Moines CSD because Green was harassing her. Before she submitted her resignation, Perry secured full-time employment with North Polk Community School District. Perry was scheduled to start her new employment on March 23, 2020. Perry did not submit an online complaint concerning Green before she resigned. After she resigned, due to the development of Covid-19, Perry did not commence her employment with North Polk Community School District. Perry had a difficult relationship with Green. However, I find Perry did not present evidence that her working conditions at Des Moines CSD were intolerable or detrimental where a reasonable person would feel compelled to quit. Perry did not submit an online complaint concerning Green before she resigned. I find, after carefully considering the evidence Perry quit her job with the Des Moines CSD without good cause attributable to the Des Moines CSD.

DECISION:

Regular Unemployment Insurance Benefits Under State Law

The June 8, 2020 (reference 01) unemployment insurance decision denying unemployment insurance benefits is affirmed. Claimant voluntarily quit her employment with the employer on March 13, 2020. Unemployment insurance benefits are denied until the claimant has worked in and earned wages for insured work equal to ten times her weekly benefit amount after her separation date, and provided she is otherwise eligible.

Pandemic Unemployment Assistance (“PUA”) Under the Federal CARES Act

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, the claimant 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 may provide up to 39 weeks of unemployment

benefits. An individual receiving PUA benefits may also receive an additional \$600 weekly benefit amount under the Federal Pandemic Unemployment Compensation program if the individual is eligible for PUA benefits for the week claimed. This decision does not address whether the claimant is eligible for PUA. If the claimant wishes to receive PUA benefits, the claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below:

Note to Claimant: If this decision determines you are not eligible for regular unemployment insurance benefits and 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. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance ("PUA"). **You will need to apply for PUA to determine your eligibility under the program. Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.** This decision denies benefits. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.



Heather L. Palmer
Administrative Law Judge
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July 28, 2020

Decision Dated and Mailed

hlp/sam