

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

HILDIE K SEARS
Claimant

APPEAL NO. 08A-UI-08887-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS FARGO BANK NA
Employer

**OC: 07/13/08 R: 02
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Hildie K. Sears (claimant) appealed a representative's September 26, 2008 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Wells Fargo Bank, N.A. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 20, 2008. This appeal was consolidated for hearing with one related appeal, 08A-UI-08888-DT. The claimant participated in the hearing. Deb Avitt appeared on the employer's behalf and presented testimony from one other witness, Joshua Humphreys. During the hearing, Claimant's Exhibits A and B were entered into evidence. 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 employer on May 5, 2008. She worked full time as a mortgage loan adjuster in the employer's West Des Moines, Iowa office. Her last day of work was July 14, 2008. She voluntarily quit as of that date.

The claimant was on a team supervised by Mr. Humphreys for about a month, but had not been physically moved to be in a work area close enough to receive instruction and coaching on performance from him. When she did seek further input to improve her performance, she felt she was being put off. On July 5 the claimant sent an email to Ms. Avitt, Mr. Humphreys' manager, seeking to meet with her about her concerns about her training, the work being so slow, and concerns regarding Mr. Humphreys' management and communication. A meeting between the claimant and Ms. Avitt was held on July 10, and at the conclusion Ms. Avitt agreed to see that the claimant's desk got moved into Mr. Humphreys' team's area and to speak to him about training and communication issues; the claimant agreed to stay with the team and cooperate with the efforts to get her more input and training.

On Friday, July 11, Ms. Avitt followed up with Mr. Humphreys, and he followed up with the claimant, outlining a plan where the two of them would begin daily meetings for additional training and coaching. Ms. Avitt also had begun the process to have the claimant's desk area moved into the team area during the following week. However, on Monday, July 14, the claimant worked only about a half day before deciding to quit. She cleared her desk and left; she sent Ms. Avitt an email from home at approximately 11:05 a.m. indicating that she could not "take the boredom in this department" that she was "a fast paced king of person (and) I know this is not the job for me." She felt Mr. Humphreys was not competent as a supervisor and did not "want to be the guinea pig" for Ms. Avitt's attempts to direct or correct Mr. Humphreys.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer 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), (22). Quitting because of a concern that the employee's job performance is not up to the employer's expectations, where the employer has not indicated an intention to discharge the employee due to the job performance, is not good cause. 871 IAC 24.25(33). Simply deciding that the job was not suitable for her work style or a good fit for her is not sufficient to qualify her for unemployment insurance benefits. Taylor v. Iowa Department of Job Service, 362 N.W.2d 534 (Iowa 1985). To the extent Mr. Humphreys' management approach was not faultless, while the claimant did seek intervention from the employer to address the problem, she did not give the employer a realistic opportunity to implement any corrective action so that if the employer had subsequently failed to take effective action to address or resolve the problem, it then would have made the cause for quitting "attributable to the employer." Hy-Vee Inc. v. Employment Appeal Board, 710 N.W.2d 1 (Iowa 2005); Swanson v. Employment Appeal Board, 554 N.W.2d 294 (Iowa 1996); Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993).

While the claimant's work situation was perhaps not ideal, 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). The claimant has not satisfied her burden. Benefits are denied.

DECISION:

The representative's September 26, 2008 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of July 14, 2008, 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.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw