IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU

CRYSTAL A BREED Claimant **HEGG MEMORIAL HEALTH CENTER** Employer	**APPEAL 24A-UI-03716-AR-T** **ADMINISTRATIVE LAW JUDGE DECISION** **OC: 03/17/24** **Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On April 10, 2024, the claimant filed an appeal from the April 3, 2024, (reference 01) unemployment insurance decision that denied benefits based on the determination that claimant voluntarily quit employment without a showing of good cause attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on April 29, 2024. Claimant, Crystal A. Breed, participated, and was represented by attorney Paige Fiedler. Employer, Hegg Memorial Health Center, participated through HR Director Steven Ring and CEO Glenn Zevenbergen. No exhibits were offered or admitted.

ISSUE:

Did claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on December 5, 2018. Claimant last worked as a full-time finance manager. Claimant was separated from employment on March 13, 2024, when the employer accepted her resignation effective immediately.

Throughout the final two years of claimant's employment, her supervisor, CFO William Slater, engaged in conduct that made claimant feel uncomfortable. Three or four times per month, Slater informed claimant that she was attractive. He would comment on her weight loss, her hair, and her general attractiveness. On one occasion, Slater stopped a conversation with another person to exclaim that claimant looked "amazing" in the dress she was wearing. These comments happened so frequently that claimant made efforts to change her appearance to dissuade Slater from making such comments. On one occasion, claimant cut her hair. Slater stated he was surprised claimant's husband allowed her to do that. When Slater made these comments, claimant would either not respond or say thank you, without encouraging him.

Slater also regularly asked if claimant wanted the code to his apartment. Claimant always refused this offer, but Slater persisted. Slater offered to stock the apartment with claimant's preferred wine. When the employer got a new safe, Slater gave claimant the combination for the safe in case she needed it. He told her afterward that the combination was also the code to his apartment building. Claimant was angry that he had disregarded her wishes regarding the apartment code issue.

Slater frequently asked claimant and her husband out for meals. If claimant refused, he would renew the invitation a couple of weeks later. Often, claimant and her husband accepted the invitation. At times during these meals, Slater made remarks that made claimant uncomfortable or that she found odd.

Also throughout the final two years of claimant's employment, Slater's conduct made claimant believe that she could be retaliated against if she complained about the conduct to which she was being subjected. Slater vented to claimant angrily after he received two informal complaints about his conduct—once after he gifted a stuffed bear to another coworker, and once after he was asked to remove a screensaver that others found inappropriate. Slater also told claimant that he carried a firearm to work at all times. Slater brought up discussions he had with friends about engaging in extramarital affairs and physically harming his wife. Claimant worked very closely with Slater out of necessity and these incidents caused her to conclude that a complaint would be met with anger and retaliation.

On March 4, 2024, claimant submitted a complaint of workplace harassment. She listed all of the issues enumerated above. Claimant stated that if the issues were not resolved, she would likely quit employment. She did not feel she could continue to work with Slater.

The employer initiated an investigation in which it interviewed the finance department and some administrative staff. Upon the conclusion of the investigation, the findings were reviewed by general counsel. The employer concluded that the conduct did not rise to the level of harassment. It did issue Slater a disciplinary warning as the result of the conduct. The employer also concluded that claimant had "crossed professional boundaries" when she invited Slater for at least one meal, which may have "caused confusion" for Slater. On March 11, 2024, the employer reviewed the investigation results with claimant. Zevenbergen offered to allow claimant to work from home for an indefinite period, thinking that physical distance might help the situation. Zevenbergen also offered to act as an intermediary between claimant and Slater for any of their communication. Claimant told Zevenbergen that she did not think that this was a workable solution for the issues. Claimant necessarily worked very closely with the CFO in her position. Ring and Zevenbergen indicated to claimant that Slater was "socially awkward," and they informed her that no one else had ever complained about sexual harassment with respect to Slater. They indicated to claimant that Slater told them he had "no intentions of intimacy" with claimant. Claimant submitted her resignation that day, with an effective date of March 28, 2024.

On March 13, 2024, Ring and Zevenbergen called claimant into another meeting and indicated that it was their preference that she leave employment effective immediately, and she would be paid through March 28, 2024. This, they said, was because they wanted "both parties to be able to move forward." Claimant's employment ended March 13, 2024.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes:

Iowa Code section 96.5(1) provides: "An individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department."

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

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). The standard of what a reasonable person would have believed under the circumstances is applied in determining whether a claimant left work voluntarily with good cause attributable to the employer. *O'Brien v. Emp't Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993).

Where a claimant gives numerous reasons for leaving employment the agency is required to consider all stated reasons which might combine to give the claimant good cause to quit in determining any of those reasons constitute good cause attributable to the employer. *Taylor v. Iowa Dep't of Job Serv.*, 362 N.W.2d 534 (Iowa 1985).

Iowa Admin. Code r. 871—24.26(4) 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:
>
> (4) The claimant left due to intolerable or detrimental working conditions.

The administrative law judge concludes that claimant was subjected to conduct that rose the level of an intolerable work environment over the course of two years. Though she only made one complaint about the conduct during that time, it was reasonable for her to conclude that the employer's response to that complaint was insufficient. It seems that the employer hoped claimant would have a change of heart over time instead of making meaningful changes to the work environment to address claimant's concerns. The employer may have felt it had limited options with respect to the actions it could take that would make meaningful changes, but that is the employer's concern, not the claimant's. Claimant has carried her burden of establishing that she notified the employer of legitimate concerns regarding harassment in the workplace and then reasonably concluded that the response to those concerns was insufficient to make the workplace tolerable. Claimant quit employment with good cause attributable to the employer. Benefits are allowed.

DECISION:

The April 3, 2024, (reference 01) unemployment insurance decision is REVERSED. Claimant left employment with good cause attributable to the employer on March 13, 2024. Benefits are allowed, provided the claimant is otherwise eligible.

Alexis D. Rowe
Administrative Law Judge

April 30, 2024
Decision Dated and Mailed

AR/jkb

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov

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.

AN APPEAL TO THE BOARD SHALL 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.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at https://www.legis.iowa.gov/docs/code/17A.19.pdf or by contacting the District Court Clerk of Court https:///www.iowacourts.gov/iowa-courts/court-directory/.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or 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.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:
A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
En línea: eab.iowa.gov

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:
1) El nombre, dirección y número de seguro social del reclamante.
2) Una referencia a la decisión de la que se toma la apelación.
3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en https://www.legis.iowa.gov/docs/code/17A.19.pdf o comunicándose con el Tribunal de Distrito Secretario del tribunal https:///www.iowacourts.gov/iowa-courts/court-directory/.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:
Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.