

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LORI A BOYD
Claimant

CHRISTIAN BOOK & GIFT SHOPPE
Employer

APPEAL 16A-UI-10396-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/04/16
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the September 20, 2016, (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on October 6, 2016. The claimant Lori Boyd participated and testified. Witnesses Randy Boyd and Mary Birkinbine testified on behalf of the claimant. The employer Christian Book & Gift Shoppe did not participate. Claimant's Exhibit A was received into evidence.

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 a manager from October 1990, until this employment ended on September 2, 2016, when she voluntarily quit.

Claimant testified that throughout her employment, and especially in the last two years, she had ongoing issues with the way she was treated by her supervisor, Joanna Salvador. Over the years Salvador was very critical of claimant. Salvador would accuse claimant of being too nice to customers, told her she worked too slowly, made rude comments about her hair, and generally criticized how she did her job. Both of claimant's witnesses confirmed how upset Salvador made claimant while she was at work. Salvador never made any threats, called claimant any names, or became physically violent with her. Salvador's treatment of claimant led her to become so stressed she developed a form of stress induced eczema in July 2016. (Exhibit A).

On August 17, 2016, Salvador began criticizing claimant in front of a customer. Claimant was very embarrassed by this. After the customer left claimant approached Salvador and asked why she was treating her so poorly. Salvador told claimant she had not done anything to her and maybe it was best if she went home. Claimant again asked Salvador why she was treating her

this way. Salvador responded, "I hate your guts, is that what you want to hear?" Claimant asked if she heard her correctly and Salvador again told her to leave. Salvador then walked away and claimant left. On August 22, claimant submitted her two week notice to Salvador. Claimant continued to work out her notice period, but altered her shifts so she would not have to work when Salvador was present.

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.

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

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 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.

...

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

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.

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).

While Salvador's treatment of claimant may have been overly harsh and unfair and most certainly caused claimant stress and anxiety, she has not shown that Salvador created an intolerable work environment for claimant that gave rise to a good cause reason for leaving the employment. Although Salvador's treatment of claimant definitely took its toll on her and may have been hurtful, she was not physically abusive or threatening, nor did she engage in other behavior which would amount to intolerable working conditions sufficient for a reasonable person to feel they had to resign. While claimant's leaving 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 are denied.

DECISION:

The September 20, 2016, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she is deemed eligible.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

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