

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TERRYNE K DENSMORE
Claimant

IOWA WORKFORCE DEVELOPMENT
Employer

APPEAL 24A-UI-00057-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/03/23
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 21, 2023, (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on January 22, 2024. Claimant Terryne Densmore participated and testified. Employer Iowa Workforce Development did not call the toll-free number listed on the hearing notice at the time of the hearing and did not participate.

ISSUE:

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

FINDINGS OF FACT:

As claimant was the only witness, the administrative law judge makes the following findings based solely on claimant's testimony: Claimant was employed full-time, most recently as an employment liability specialist from September 17, 1999, until October 6, 2023, when she left her employment due to her working conditions.

On April 14, 2023, claimant began working in a new position. Her new supervisor, Stephanie Goods, was a former coworker with whom claimant got along well, and during the first few weeks in the new position, claimant and Ms. Goods continued to get along. After a few weeks, Ms. Goods began telling claimant she was not performing her tasks correctly and was making mistakes. On June 9, 2023, claimant had a one-on-one meeting with Ms. Goods, who made vague statements about claimant's work and issues with her work. She told claimant she was creating legal problems for employer with her mistakes. When claimant asked for clarification, Ms. Goods became upset and by the time the meeting ended, both claimant and Ms. Goods were upset with each other. Claimant felt that any concerns about her job performance were due to inadequate training because she was never correctly trained on the matters she was accused of not properly completing. She was told she could no longer ask questions because she was asking too many questions and was directed back to her training materials, even when claimant explained the answer was not in them.

After the June 9, 2023, meeting, claimant's supervisor stopped chatting with her at work, but continued to chat with other employees. Other employees were allowed to ask each other questions, but they were told not to talk to claimant. Claimant felt humiliated and ostracized. She could not get any assistance with her work but continued to be told she was not doing her job properly. Ms. Goods continued to raise her voice with claimant and tell her she was making errors. Claimant noted Ms. Goods treated some employees kindly and others were treated like claimant was treated.

Claimant brought the first of several complaints to human resources and Ms. Goods' supervisor on June 9, 2023. Human resources responded one time to claimant and asked her to refrain from sending further emails on the matter. Ms. Goods' supervisor told claimant he believed Ms. Goods was giving him accurate information relating to claimant so would not take her complaint further.

On August 1, 2023, claimant filed a complaint with the Department of Administrative Services (DAS) regarding Ms. Goods' treatment of claimant. At the end of August, DAS notified claimant that employer's human resources department would handle the investigation into her complaint. Claimant did not agree this would be helpful because she had already made several complaints to employers' human resources and that were not addressed. On September 29, 2023, claimant received an email from human resources that the investigation was complete but that the results could not be shared with claimant. Claimant sent a message in response asking how and when her work environment would change and how could employer confirm Ms. Goods would not retaliate against her. She also asked when she would get additional training. No one responded to claimant's email, so on October 6, 2023, claimant emailed human resources to let employer know she was resigning her position effective immediately. Claimant did not want to continue working in the conditions where she was bullied by her supervisor and ostracized by her coworkers.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was with 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.

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).

Iowa Admin. Code r. 871-24.26(2) 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.

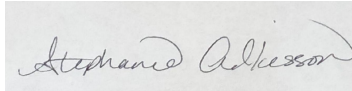
Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code section 96.2. *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993)(citing *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986) "[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.*

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. 871 IAC 24.26(4). While a claimant does not have to specifically indicate or announce an intention to quit if her concerns are not addressed by the employer, for a reason for a quit to be "attributable to the employer," a claimant faced with working conditions that he considers intolerable, unlawful or unsafe must normally take the reasonable step of notifying the employer about the unacceptable condition in order to give the employer reasonable opportunity to address his concerns. *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). If the employer subsequently fails to take effective action to address or resolve the problem, it then has made the cause for quitting "attributable to the employer."

Claimant has carried her burden of proving the voluntary leaving was for good cause attributable to employer. She had taken reasonable steps to preserve her employment prior to quitting. She brought several concerns, including a lack of appropriate training and her supervisor and coworker's hostile treatment of her, forward to human resources. While employer informed claimant an investigation was complete, she was not notified of the results of the investigation or any steps that would be taken going forward. Employer did not respond to her requests for additional information. Claimant was subjected to poor treatment and humiliation by her supervisor. A reasonable person would quit under the circumstances. Claimant's separation from employment is therefore not disqualifying and benefits are allowed, provided she is otherwise eligible.

DECISION:

The December 21, 2023, (reference 01) unemployment insurance decision is reversed. Claimant quit her employment on October 6, 2023, with good cause attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible.

A handwritten signature in cursive script, reading "Stephanie Adkisson", written in dark ink on a light-colored rectangular background.

Stephanie Adkisson
Administrative Law Judge

January 24, 2024
Decision Dated and Mailed

SA/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 adquiriera 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.