

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RACHAEL D SMITH
Claimant

GAMESTOP INC
Employer

APPEAL 21A-UI-22246-S2-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/04/21
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the September 24, 2021, (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 December 2, 2021. Claimant Rachael D. Smith participated and testified. Employer Gamestop, Inc. 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:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as an assistant store leader from August 20, 2019, until January 7, 2021, when she quit.

Claimant left her employment due to her working conditions. Her district manager, Drew, regularly humiliated and bullied claimant and other employees. Drew would humiliate claimant during meetings with employees. Drew would tell claimant to do a task a certain way, but then would later change his mind and reprimand her for not doing the task the other way. Additionally, employer failed to provide proper safety measures for its staff. On one occasion, a customer threatened claimant with violence and told her she knew where her car was parked. The police were called, and the customer was banned from the store. When the customer returned, claimant contacted Drew who made light of the situation and told her the customer had a right to be in the store. On another occasion, claimant fell from a ladder because the ladder was broken, and employer refused to repair or replace it.

Claimant's store location had mold issues. Claimant raised this issue with management, but nothing was done. Employer did not provide adequate cleaning throughout the store, or give employees breaks so they could sanitize the store and keep up with COVID-19 protocols.

Claimant and other managers would have to pay for their own cleaning supplies because employer did not consistently provide it,

Employer did not provide training to claimant regarding its procedure for filing complaints regarding her workplace. She did not receive an employee handbook when she began her employment. Employer provided a phone number to employees for questions regarding paychecks or insurance, but it was not a number for filing complaints or sharing concerns. Claimant did not know who to contact to share her concerns regarding Drew and the store.

On January 7, 2021, claimant turned in her keys to the store leader and let him know she was quitting her employment effective immediately due to the conditions of the store.

REASONING AND CONCLUSIONS OF LAW:

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. 871-24.26(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 forward to Drew regarding safety, but he did not address them. Further, employer failed to provide claimant with an employee handbook or any training outlining how to complain about her work environment. Complainant was forced to work in a location where mold was present and proper COVID-19 protocols were not followed due to a lack of cleaning supplies. Further, claimant was subjected to bullying and humiliation regularly by her district manager. 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 September 24, 2021, (reference 01) unemployment insurance decision is reversed. Claimant voluntarily left her employment with good cause attributable to employer. Benefits are allowed, provided she is otherwise eligible.



Stephanie Adkisson
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January 11, 2022

Decision Dated and Mailed

sa/abd