

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**JESSICA KOCH**  
Claimant

**ARTHUR E HUTTON**  
Employer

**APPEAL 19A-UI-06271-DG-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/14/19  
Claimant: Appellant (2)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Admin. Code 871-24.26(4) – Intolerable Work Conditions

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated August 5, 2019, (reference 01) that held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on August 29, 2019. Claimant participated. Employer failed to respond to the hearing notice and did not participate. Claimant's Exhibits A-J were admitted into evidence.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on July 15, 2019. Claimant resigned from the employment on that date because her work environment had become intolerable.

Claimant began working for employer as a full-time caregiver in February of 2014. Claimant began having difficulties with her employer's spouse sometime during the summer of 2018. The employer's spouse was very critical, and called her names and made her feel stupid. Claimant really loved her job so she tried to work harder and not cause problems at work.

On or about April 15, 2019 the employer's spouse became very upset with claimant. Claimant fled the area and ran to her car. The employer's spouse ran outside and pounded her fists on claimant's car, and yelled and screamed threats at her. Claimant sent a text message to the employer's spouse and she later met with the employer. Claimant was told that her services were still needed, and that she was asked to continue working for employer. Claimant agreed to continue working for employer at that time.

Claimant was still feeling stress and anxiety at work in July, 2019. Claimant sought medical treatment, and she explained what had been happening to her at work to her physician. Claimant's doctor advised claimant to seek other employer and not work for employer any

longer. Claimant discussed her options with employer, and her husband. On July 15, 2019 claimant was again attacked by her employer's spouse. Claimant was told that she was incompetent, and that no one liked her there. Claimant was told that she should leave the employment immediately.

Claimant left her employment after she was yelled at and told to leave by the employer's spouse on July 15, 2019. Claimant did not return to work after that date.

### **REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because her work environment had become intolerable.

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(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.

Iowa Admin. Code r. 871-24.26(3) 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:

- (3) The claimant left due to unlawful 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). 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).

Individuals who leave their employment due to disparate treatment are considered to have left work due to intolerable or detrimental working conditions and their leaving is deemed to be for good cause attributable to the employer. The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Dep't of Job Serv.*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Emp't Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993).

A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court concluded that, because the intent-to-quit requirement was added to Iowa

Admin. Code r. 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Claimant left the employment because her work environment was intolerable, her separation from employment was for a good-cause reason attributable to the employer. Benefits are allowed.

**DECISION:**

The decision of the representative dated August 5, 2019, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

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Duane L. Golden  
Administrative Law Judge

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Decision Dated and Mailed

dlg/scn