

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JILL T MOSBACH**  
Claimant

**APPEAL 18A-UI-10073-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**U DRIVE ACCEPTANCE CORP**  
Employer

**OC: 09/09/18  
Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Admin Code r. 871-24.25 – Voluntary Quit Without Good Cause  
Iowa Admin Code r. 871-24.26 – Voluntary Quit with Good Cause

**STATEMENT OF THE CASE:**

Jill Mosbach, Claimant, filed an appeal from the September 25, 2018 (reference 01) unemployment insurance decision that denied benefits because she voluntarily quit work with U Drive Acceptance Corp. due to dissatisfaction with the work conditions. The parties were properly notified of the hearing. A telephone hearing was held on October 22, 2018 at 1:00 p.m. The claimant participated via a written statement. The employer, U Drive Acceptance Corp, participated through Brian Burkenpas, President. Claimant's written statement was admitted as Exhibit A.

**ISSUE:**

Whether Claimant's separation was a voluntary quit without good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge makes the following findings of fact: Claimant was employed full-time as an Administrative Assistant from May 15, 2015 until her employment ended on September 6, 2018. (Burkenpas Testimony) Claimant worked Monday through Friday from 8:30 a.m. until 5:00 p.m. (Burkenpas Testimony) Claimant's direct supervisor was Jim Shaw, Chief Operations Officer. (Burkenpas Testimony) On September 6, 2018, claimant submitted her written resignation with immediate effect. (Burkenpas Testimony)

Per claimant's written statement, there are many reasons for claimant's resignation. Claimant felt overwhelmed and did not receive adequate assistance. (Exhibit A) The company had high turnover; claimant had to train new employees in addition to completing her own work. (Exhibit A) When claimant began her employment, she was expected to work one or two Saturdays per month. (Burkenpas Testimony) Claimant did not want to work on Saturdays. (Burkenpas Testimony) Employer is one of three companies owned by the same parent company; claimant performed work for all three companies. Claimant was compensated for all

work performed. (Burkenpas Testimony) Claimant did not like receiving work-related communication after work hours. (Exhibit A)

Employer had continuing work available for claimant had she not quit; claimant's job was not in jeopardy.

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

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

Iowa Code § 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).

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.

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 recently concluded that, because the intent-to-quit requirement was added to rule 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).

Where a claimant gives several different reasons for leaving employment, the administrative law judge is required to consider all stated reasons which might have combined to give the claimant good cause to quit in determining whether any of those reasons constituted good cause attributable to the employer. *Taylor v. IDJS*, 362 N.W.2d 534 (Iowa 1985).

When claimant began her employment, she was told that she was expected to work one or two Saturdays per month. (Burkenpas Testimony) Claimant did not like working on Saturdays. (Exhibit A; Burkenpas Testimony) Employer accommodated claimant by changing her position and work schedule, so claimant would not work on Saturdays. (Burkenpas Testimony) The work claimant performed was within the parameters of her job description as an administrative assistant; regardless of which company the work was for, claimant was compensated for all of the work that she performed. (Burkenpas Testimony) Claimant alleges that she dealt with sexual harassment in the workplace but does not provide any more information than this conclusory statement. (Exhibit A) Claimant received work-related text messages from Brian Burkenpas, the company president, after working hours. (Burkenpas Testimony) Burkenpas and claimant had been friends for ten years. (Burkenpas Testimony) Burkenpas did not know that claimant took issue with these emails; and they were not harassing. (Burkenpas Testimony) Claimant felt overwhelmed and underappreciated; however, it is not evidence of intolerable or detrimental working conditions.

Claimant has not met her burden of proving that she quit for good cause attributable to the employer. Benefits are denied.

**DECISION:**

The September 25, 2018 (reference 01) unemployment insurance decision is affirmed. Benefits are denied until such time as the claimant works in and has been paid wages for insured work equal to ten times claimant's weekly benefit amount.

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Adrienne C. Williamson  
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Decision Dated and Mailed

acw/rvs