

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

FELICIA M CHRISTENSEN
Claimant

HAMES HOMES LLC
Employer

APPEAL 19A-UI-02844-H2T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/10/19
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 28, 2019, (reference 01) representative decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on April 24, 2019. Claimant participated. Employer participated through Barbara Hames, Owner.

ISSUE:

Did the claimant voluntarily quit her employment without good cause attributable to the 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 office manager beginning on August 13, 2014 through March 12, 2019, when she voluntarily quit.

The company has three owners: Ms. Hames, Troy and Cynthia. Ms. Hames was claimant's direct supervisor. The claimant was required to work with another manager named Richard. Richard was directly supervised by Troy. Claimant did not supervise Richard and he did not supervise her. Until June 2018 claimant's interactions with Richard were limited. Due to an office move after June 2018 the claimant interacted with Richard much more often. Claimant did not get along with Richard. Other employees also complained about working with Richard. Some of those employees also complained about working with the claimant. Both the claimant and Richard have strong personalities and each wanted to do things their own way.

On Friday March 8 the claimant had an interaction with Richard that she did not like during a discussion in her office regarding an accounting matter. Claimant felt like Richard was demeaning and had threatened her. Claimant felt that Richard was "in her space" and was "looming" over her at her desk. Richard almost bumped into her when she was gathering some information he had requested. When claimant asked Richard to step back, he did so.

On Monday March 11 the claimant complained to her supervisor (Ms. Hames) about both the way Richard had treated her and the underlying issue and disagreement the two of them had. That same day a meeting was held with Richard and his supervisor Troy, and claimant and her supervisor Ms. Hames. After a forty-five minute discussion, Troy and Ms. Hames determined that they would follow Richard's plan for resolving the underlying issue and not the claimant's. The claimant was upset that the owners were not doing what she wanted them to do and left the meeting immediately thereafter.

The employer had held other meetings with the claimant and Richard in an attempt to resolve their personality conflict. Richard had been previously coached on how he dealt with his coworkers. The claimant had also been coached previously on how she dealt with and spoke to coworkers. Claimant was very opinionated and on occasion would overstep her bounds and tell coworkers she did not supervise that they were not doing their job properly.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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(6) 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:

(6) The claimant left as a result of an inability to work with other employees.

Iowa Admin. Code r. 871-24.25(21) 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.

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).

The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). "Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973).

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa Ct. App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *State v. Holtz*, Id. In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *State v. Holtz*, Id.

The administrative law judge finds the testimony of Ms. Hames more credible than that of the claimant. Richard was a difficult coworker. The claimant did not like him and did not like dealing with him. The claimant was upset that the owners of the business would not force Richard to change some of his practices that she found offensive. She was also upset that the owners would not pick her method of resolving the business dispute between her and Richard. The owners, not the claimant are the people who are entitled to make business decisions. While the claimant may truly believe her way is correct, and it may even be the correct decision, the fact remains it is not her decision to make. By the same token, the administrative law judge finds the claimant was also considered a difficult coworker by some of her coworkers. Every workplace has its share of difficult coworkers and situations. The claimant simply has not met her burden to prove an intolerable work environment. The claimant herself acquiesced in much of what occurred for years, persuading the administrative law judge that the behavior was not as bad as the claimant alleges.

The claimant simply has not established that Richard created an intolerable work environment that created good cause attributable to the employer for quitting the employment. What is more believable is simply a personality conflict between Richard and the claimant. The claimant quit because she could not get along with her coworker. While claimant's decision to quit may have been based upon good personal reasons it was not a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied.

DECISION:

The March 28, 2019, (reference 01) decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs