

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KRISTIN S SMITH
Claimant

WELLMARK INC
Employer

APPEAL 21A-UI-21750-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 07/18/21
Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

On September 29, 2021, Kristin Smith (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated September 20, 2021 (reference 01) that disqualified claimant from benefits based on a finding she voluntarily quit on June 23, 2021 without good cause attributable to employer.

A telephone hearing was held on November 19, 2021. The parties were properly notified of the hearing. The claimant participated personally. Wellmark Inc. (employer/respondent) submitted documentation in lieu of participation.

Claimant's Exhibit 1 and Employer's Exhibit 1 were admitted. Official notice was taken of the administrative record.

ISSUE(S):

- I. Was the separation from employment a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant worked for employer full-time as a customer representative. Claimant's first day of employment was in November 2013. Claimant's immediate supervisor was Josh Mazer. The last day claimant worked on the job was June 23, 2021. Claimant resigned at that time.

Claimant resigned due to issues with Mazer. Mazer was increasingly unprofessional toward claimant after she returned from maternity leave in March 2021. He was resistant to properly training her on a new system put in place while she was absent. He also frequently texted her personal phone, including outside of business hours, and regularly threatened her employment. Claimant informed Mazer that she felt he was behaving unprofessionally, requested he not text her personal phone, and requested HR get involved to help resolve these issues. Mazer declined the request and claimant resigned shortly thereafter.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated September 20, 2021 (reference 01) that disqualified claimant from benefits based on a finding she voluntarily quit on June 23, 2021 without good cause attributable to employer is REVERSED.

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. 871-24.26 provides in relevant part:

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.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

"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). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). 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 administrative law judge finds claimant has carried her burden of proving the voluntary leaving was for good cause attributable to employer. Benefits are therefore allowed, provided she is not otherwise disqualified or ineligible.

Claimant's supervisor was increasingly unprofessional toward her after she returned from maternity leave in March 2021. She raised these issues with her supervisor and requested HR be involved, a request that was denied. A reasonable person would find the working conditions to be so intolerable or detrimental as to justify resignation, particularly where claimant had raised the issues prior to resigning and employer failed to address them.

DECISION:

The decision dated September 20, 2021 (reference 01) that disqualified claimant from benefits based on a finding she voluntarily quit on June 23, 2021 without good cause attributable to employer is REVERSED. The separation from employment was not disqualifying. Benefits are allowed, provided claimant is not otherwise disqualified or ineligible. Employer's account is subject to charge.



Andrew B. Duffelmeyer
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November 22, 2021
Decision Dated and Mailed

abd/abd