

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHERYL J MUMFORD
Claimant

RIVERVIEW MANOR HEALTHCARE LLC
Employer

APPEAL 17A-UI-10346-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/17/17
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 6, 2017 (reference 02) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit because she disliked her work environment. The parties were properly notified of the hearing. A telephone hearing was held on October 26, 2017. The claimant, Cheryl J. Mumford, participated, along with witnesses Jess Roling and Christina Brenner. The employer, Riverview Manor Healthcare, L.L.C., participated through Kerri Menke, Administrator; Betty Bajor, Office Manager; and Karol Cornick, Director of Nursing. Claimant's Exhibit A was received and admitted into the record.

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, most recently as the Director of Housekeeping and Environmental Supervisor, from September 29, 2014, until September 14, 2017, when she quit. In early August 2017, one of the employer's washing machines began malfunctioning. A maintenance employee worked on the machine and determined that it could only function properly if a panel was removed and the machine was not filled up all the way. This presented a minor safety risk, as it left some of the washing machine wires exposed. Claimant became frustrated with the broken machinery and the increased workload, and she told the employer that she was putting in her notice and resigning on August 22, 2017. The employer told her that it would not accept her resignation, as she was a valued employee. At that time, claimant was promised a \$2.00 per hour raise and was told the issues would be fixed within one week.

Several weeks passed, and things did not improve. Claimant's raise was not reflected on the first paycheck she received after her conversation with the employer on August 22. When she spoke to someone about it, she was promised the issue would be fixed and she was told the raise would be retroactive, so she would not miss out on the extra income. Claimant was also getting frustrated with the employer's financial decisions. The employer did not have the ability

to get the washer issue fixed promptly because it owed money to the washing machine repairperson. Around this time, one of the drying machines broke down. An employee from Century Laundry came out and reported that the drying machines were malfunctioning because of the malfunctioning washing machine. He explained that the linens from the washing machine were not getting enough water spun out and would go into the drying machines while still sopping wet, which caused strain on the machinery. The final straw that led claimant to quit her job occurred on September 14, when administrator Judy Tucker called the bookkeeper and had her rush to pay a repair bill because yet another drying machine had gone down. Claimant was anxious and was losing sleep due to the stress of her work environment. She described herself as frustrated and fed up, so she quit. Continued work was available.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from employment was without good cause attributable to the employer. Benefits are withheld.

Iowa Code §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. 871-24.25 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.

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 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. *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. *Id.*

After assessing the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using her own common sense and experience, the

administrative law judge finds the employer's testimony slightly more credible than claimant's testimony. The administrative law judge wholly believes that claimant was anxious and stressed by her work environment, due to the increased workload. However, the administrative law judge is unconvinced that the wires exposed from the missing panel on the washing machine caused a safety risk significant enough to justify quitting.

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). Here, claimant quit after yet another machine broke down that she needed to do her work. Claimant was understandably frustrated. However, the average employee in claimant's situation would not have felt similarly compelled to quit in this situation. 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). Claimant told the employer that she was quitting and she never reported back to work. Claimant's decision to separate from employment is without good cause attributable to the employer. Benefits are withheld.

DECISION:

The October 6, 2017 (reference 02) unemployment insurance decision is affirmed. Claimant separated from 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.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/rvs