

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SHERRI L RUBINGH
Claimant

DOLGENCORP LLC
Employer

APPEAL 21A-UI-20473-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/25/21
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit from Employment

STATEMENT OF THE CASE:

On September 18, 2021, claimant Sherri L. Rubingh filed an appeal from the September 8, 2021 (reference 01) unemployment insurance decision that denied benefits after a separation from employment. The parties were properly notified of the hearing. A telephonic hearing was held at 9:00 a.m. on Thursday, November 4, 2021. The claimant, Sherri L. Rubingh, participated. The employer, Dolgencorp, L.L.C., participated through Chelsey Hostetler, Store Manager. No exhibits were offered or admitted into the record. The administrative law judge took official notice of the administrative record.

ISSUE:

Did the claimant voluntarily quit her employment with good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for Dolgencorp, L.L.C., on August 5, 2010. Most recently, claimant was employed in a part-time position as a lead employee. Claimant's employment ended on July 19, 2021, when she quit. Continued work was available for the claimant, had she not voluntarily ended her employment.

In 2019, Chelsey Hostetler became store manager of the Dollar General store where claimant worked as the assistant manager. For the next two years, the two women had a strained and tense working relationship. Hostetler expected more from claimant than from the rest of the store's employees, because claimant was an assistant manager, and claimant resented this.

Either Hostetler or claimant always needed to be in the store, so the two women rarely worked together. Because of this, they generally communicated through notes left in the store for one another. Claimant became frustrated by the notes that Hostetler left her listing tasks to complete, and she would frequently ignore these notes. Therefore, Hostetler would issue claimant disciplinary action. Claimant complained to district manager Tammy Wilde about the notes that Hostetler left for her, and Wilde spoke to Hostetler about this. Both claimant and Hostetler submitted various notes to Wilde for review. At some point, Human Resources

became involved, and there may have been an investigation completed. Neither party knows the outcome of any such investigation.

Hostetler admits she used profanity while working. Working at the store involved maneuvering boxes of products and stocking shelves all day and frequently became frustrating, especially as there was a large volume of work to complete. Hostetler would use the F-word, but she would not direct it toward the claimant or call her derogatory names. On one occasion, claimant and Hostetler got into an argument and raised their voices toward each other. This argument ended with them both crying out of frustration and ultimately apologizing to each other. This argument occurred approximately a year prior to the end of claimant's employment.

When asked about the final incident that pushed her over the edge and made her decide to quit her job, claimant cited an incident that occurred in late June/early July. Claimant was out sick and Hostetler requested specific medical documentation demonstrating claimant had tested negative for COVID-19 before she returned to work. Claimant had to go back to the doctor several times to get the required documentation, as she first had documents without her name on them, and then had documents without the date on them. Claimant felt both she and her documents were "never good enough."

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation 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. 871-24.26(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. 871-24.25 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:

(22) The claimant left because of a personality conflict with the supervisor.

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.* When 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.*


The findings of fact show how the disputed factual issues were resolved. After assessing the credibility of the witnesses who testified during the hearing, the reliability of the evidence submitted, considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge attributes more weight to the employer's version of events. The administrative law judge did not find Serrano credible, and her claim that Hostetler once referred to claimant as a profane name is without merit. Similarly, claimant's allegations that Hostetler "abused" her are not believable, as they are not supported by any specific incidents or details.

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). Claimant left her employment due to a difficult working relationship with her store manager. She was frustrated, and perhaps even overwhelmed, by the high expectations that Hostetler had set for her, and she found it challenging to meet those expectations. While this was undoubtedly a difficult work environment, the average person in claimant's situation would not have felt similarly compelled to quit given the circumstances.

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). On claimant's final day of employment, she handed Hostetler her keys to the store and then ceased reporting for work. While claimant may have left her employment for good personal reasons, she did not quit for a reason fairly attributable to the employer. Benefits must be withheld.

DECISION:

The September 8, 2021 (reference 01) 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
Unemployment Insurance Appeals Bureau

December 7, 2021
Decision Dated and Mailed

lj/mh