

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

RAE A TUCKER
Claimant

APPEAL NO. 07A-UI-08672-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**SOUTHERN IOWA RESOURCES
FOR FAMILIES INC**
Employer

OC: 07/29/07 R: 03
Claimant: Appellant (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated September 7, 2007, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. Telephone hearings were held on October 2 and 4, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. U.J. Booth participated in the hearing on behalf of the employer with witnesses, Sharman Lowenberg and Sharon McNeill. Exhibits One through Eight were admitted into evidence at the hearing.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked full time as executive director for the employer from July 3, 2000, to July 20, 2007. The employer is governed by a board of directors that include representatives from the counties that provide funding for the employer. The Union County representative is County Supervisor Robert Brown. Sharman Lowenberg is the chair of the employer's board of directors.

On April 25, 2007, the claimant had submitted her letter of resignation. In the letter, she said she would work until her replacement was hired and trained. She stated that she planned to return to school and ultimately apply to medical school for the fall 2008. She notified the board that she wanted to work part time starting June 2007 so she could take some required science courses over the summer.

Although the letter suggested the claimant was quitting to go back to school, the main motivating factors for her submitting her resignation were the hostile and intimidating treatment she had received from Mike King, the chair of the Union County Board of Supervisors, and her belief that the board of directors had not done anything to defend her against what she believed were unjustified attacks by King against her. The final straw was a verbal browbeating she received from King when she appeared before the Union County Board of Supervisors on

April 23. There were board members who attended the meeting, including Brown, but they did not come to her defense as King yelled at her and questioned her compensation. She had heard that King wanted her fired and had complained previously about King's intemperate conduct to Brown and Lowenberg.

The claimant's resignation and the process for hiring her replacement were discussed at a board of director's meeting on May 10, 2007. The claimant reiterated that she would work full time until May 25, 2007, and part time until the end of August 2007 to help until her replacement was hired and trained. No action was taken at the meeting to accept her resignation.

A board of director's meeting was held on May 24, 2007. During the meeting, the claimant was asked when her final date would be. She stated that she would work through August and until the year-end financial statements were completed and afterward to train and transition her replacement. The board then voted to accept her resignation.

After the meeting on May 24, 2007, board members and staff approached the claimant about rescinding her resignation and continuing as executive director. She decided that if the board was willing to make some changes in her compensation that she would rescind her resignation.

The board met on June 21, 2007. The claimant informed the board that if they made some changes in her compensation she would be willing to rescind her resignation. She proposed that her employer-supplied vehicle be sold and she receive the equivalent value of the transportation benefit as a cash raise, that she receive a three-percent salary increase, and that she receive a lump sum payment for the additional responsibilities of having opened an office in Osceola and for opening a new office in Clarinda in the same amount as she had received in the past for opening new offices (\$5,000). She proposed that it be paid at the end of the fiscal year and added to her salary beginning July 1, 2008. Under her proposal, her salary would be raised to \$78,810 beginning July 1, 2007.

A motion was made, seconded, and passed by the board to accept the claimant's compensation proposal. Although there was no formal motion passed to accept the rescission of the claimant's resignation, the claimant and the board members in attendance all understood that she was no longer quitting as executive director and was going to continue to work at least through until July 1, 2008, based on the compensation package that had been passed. After the June 21, 2007, meeting, the employer was no longer looking for anyone to replace the claimant.

Pursuant to the motion of the board, the claimant sold the employer-provided vehicle. Starting July 1, 2007, the claimant was paid based on the \$78,810 annual salary. Sometime in July 2007 board members began having misgivings about the compensation increase they had approved. On July 18, 2007, Brown and Lowenberg told the claimant that board members had discussed the fact that no formal approval of the rescission of her resignation had taken place and there were board members questioning her compensation. She was asked to supply information about salaries for comparable positions at the board meeting on July 19, 2007.

On July 19, 2007, the claimant presented the information that she had gathered about compensation for comparable positions. Lowenberg brought up before the board that no formal action had been taken at the previous meeting to reinstate the claimant or retract her resignation and proposed that this be discussed.

After the discussion, Lowenberg stated that the board was uncomfortable with the \$5,000 for each site opened. The board offered the claimant a salary of \$78,810 without the \$5,000 for each site, with the matter subject to review again in July 2008. The claimant declined the offer and said her resignation would stay in.

The claimant was overwrought by what had happened and felt mentally unable to work for the employer. On July 20, 2007, she wrote a letter to Lowenberg indicating that she planned to take three personal days to seek psychiatric services. She informed Lowenberg that she had originally planned to work until September 1 and requested that she be allowed to turn in sick time for mental health purposes until then. Ultimately, the employer considered the claimant to have resigned effective July 19, 2007, and changed the locks on the doors and shut off the claimant's employer-provided cell phone.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law provides for a disqualification for 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.

871 IAC 24.26(1) 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:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

The crux of this case is the outcome of the June 21, 2007, meeting. The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and the reliability of the evidence and by applying the proper standard and burden of proof. The claimant's testimony was very credible about what transpired during that meeting. Lowenberg's testimony was in fact quite supportive of the notion that after the June meeting, the board became "uncomfortable" with the compensation it had given the claimant. The bottom line is that the board had agreed to the claimant's compensation proposal during the meeting, and everyone understood that as a result, the claimant was going to continue as executive at least until July 1, 2008.

The board's offer on July 19, 2007, amounted to a substantial change in the compensation arrangement passed by the board on June 21, 2007. Consequently, the claimant had good cause attributable to the employer to leave employment and is eligible for unemployment insurance benefits. Although the findings include information about what happened after July 19, 2007, they are legally irrelevant in light of my conclusion that a new term of employment was agreed to by the parties and the claimant had good cause to quit that employment.

DECISION:

The unemployment insurance decision dated September 7, 2007, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw