

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALYSSA M SARGENT
Claimant

APPEAL NO. 17A-UI-00910-TNT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**AFFORDABLE METAL MANUFACTURING
LLC**
Employer

OC: 06/19/16
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Alyssa M. Sargent, the claimant, filed a timely appeal from a representative's decision dated January 20, 2017, reference 03, that denied unemployment insurance benefits, finding the claimant voluntarily quit work on November 18, 2016, because she did not like the work environment. After due notice was provided, a telephone hearing was held on March 1, 2017. Claimant participated. The employer participated by Ms. Brooke Wagler, Office Manager, Mr. Royce Green, Shop Lead, and Mr. Darren Brown, Salesman.

ISSUE:

The issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Alyssa Sargent was employed by Affordable Metal Manufacturing LLC from August 8, 2016 until November 18, 2016, when she voluntarily left employment. Ms. Sargent was employed as a shop detail worker and office worker trainee. The claimant was employed full-time and was paid by the hour. The claimant worked under the supervision of Ms. Brooke Wagler and Mr. Royce Green.

Ms. Sargent left her employment with Affordable Metal Manufacturing LLC on November 18, 2016, following a meeting that had been held to resolve some areas of dissatisfaction between Ms. Sargent and her employer. On the morning of November 18, 2016, Mr. Royce Green had started the heaters in the shop area because the working area was chilled and when Mr. Green saw an access door open to the outside, he closed it. Ms. Sargent had opened the door earlier that morning to enhance the ventilation in the work area. Although the facility was large in size and had few machines that put off any exhaust, Ms. Sargent believed that fresh air would be beneficial. The claimant previously worked for another employer where toxic fumes were given off during the welding processes and had worn a ventilator mask while employed by that company. The issue of whether an access door should be left open during cold weather had been an on-going issue between Mr. Green and the claimant for approximately two weeks

leading up to November 18, 2016. No other employees had complained about the work environment, air quality, or atmosphere, except Ms. Sargent.

On November 18, 2016, the claimant complained to Ms. Brooke Wagler about the access door being shut by Mr. Green. When Ms. Wagler went to the shop area to investigate Ms. Sargent's complaint, she observed Ms. Sargent playing music from her cell phone that was located in Ms. Sargent's pocket. The claimant had been strictly prohibited from having her cell phone on her person after she had made a costly error while distracted by the device, Ms. Wagler inquired as to why the claimant was violating the rule that prohibited her from having the cell phone on her person, instead of keeping it in a designated work area as she had been instructed. Ms. Wagler then questioned Mr. Green and he stated that he had closed the door because the heat was now on. Ms. Sargent did not accept the explanation, but instead questioned her employer as to why the heat was on. Because of the issues of the claimant's cell phone use and other issues of whether the claimant was following the directives of the shop lead when instructed to do so, the employer decided to hold an open meeting among employees and management to resolve the issues.

During the meeting, Ms. Sargent was unwilling to accept the management directives that had been given to her about cell phone use and about following Mr. Green's directives about the opening of an access door in the shop area. Because the employer wished to keep Ms. Sargent as an employee, they were willing to further accommodate Ms. Sargent and agreed the claimant could have an access door open in the shop area as long as the company's heat systems were not being run and the company agreed to allow the claimant to carry her cell phone on her person as she worked.

Ms. Sargent believed that she should not have been questioned about her cell phone use that day, although she had been observed violating the mandate that had been given to her cell phone use by her employer. Ms. Sargent had been unwilling to accept the employer's management decision regarding her use of the cell phone and felt it inequitable that other employees could "listen to music" while they worked, but, because her duties required movement throughout the facility, she was unable to listen to the music throughout her work day. Although the employer was willing to allow the claimant to open the access door and would delay turning the heat on until later in the year, Ms. Sargent continued to be unwilling to accept accommodation, even though that was the accommodation she had earlier requested. Ms. Sargent continued to be angry and upset because of the previous issues and believed that she had been "belittled" in the meeting because other workers were not in agreement with her and did not support her conduct. At the conclusion of the meeting, the claimant stated, "I don't know if this is the place I want to work." The following day, the claimant removed her personal belongs from the company premises and left her employment. The company believed that due to the size of the building and ventilation for an overhead door open through the day, the air quality was not compromised, but still was willing to further accommodate Ms. Sargent.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that Alyssa Sargent left her employment with good cause that was attributable to the employer; it does not.

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(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.

In the case at hand, Ms. Sargent left her employment with Affordable Metal Manufacturing LLC based upon her dissatisfaction with the work environment and the employees that she worked with. The claimant was unwilling to accept management decisions about not leaving access doors open to the outside environment during cold days and the requirement that she adhere to a reasonable cell phone usage rule that had been imposed because the claimant had been distracted by her cell phone while working causing an approximate \$3,000.00 loss to the company. Although the claimant had previously worked for a different employer and was required to wear a respirator due to the toxic fumes in the environment, the circumstances at Affordable Metal Manufacturing LLC were not the same and there had been no other complaints from any employees regarding the quality of the air or lack of ventilation in the work area. The claimant had been observed violating the cell phone rule that morning and had been questioned about her violation because Ms. Sargent did not agree with the company's management decisions and she continued to be unwilling to accept them and was angry about the issues.

Although the evidence in the record establishes the employer had accommodated the claimant's requests by agreeing that the door could be kept open and that the claimant could once again carry her cell phone on her person, Ms. Sargent nonetheless elected to quit her employment with the company. It is the claimant's position that she quit due to intolerable or detrimental working conditions. Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). 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).

In this case the administrative law judge concludes based upon the evidence in the record, a reasonable person would not have quit under the circumstances. The claimant's sense of dissatisfaction with the work environment was heightened by previous employment in a more toxic work environment and her dissatisfaction with the cell rule phone was heightened because of her general unwillingness to accept management directives. While Ms. Sargent's reasons for leaving the employment were undoubtedly good cause reasons from her personal viewpoint, they were not good cause reason attributable to the employer. Accordingly, the claimant is disqualified from unemployment insurance benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and meets all other eligibility requirements of Iowa Law.

DECISION:

The representative's decision dated January 20, 2017, reference 03, is affirmed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

Terry Nice
Administrative Law Judge

Decision Dated and Mailed

rvs/rvs