

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

COLENE M BLAGDEN
Claimant

KJAA INC
Employer

APPEAL 15A-UI-13425-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/15/15
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 1, 2015, (reference 03) unemployment insurance decision that denied benefits based upon a voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on December 28, 2015. Claimant participated. Employer participated through owner, Jennifer Stallman and was represented by Grant Nichols with Merit Resources.

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 as a pharmacist technician from February 27, 2015, and was separated from employment on November 9, 2015, when she resigned.

Before her most recent tenure with employer, claimant worked for employer for a period of three years. Although claimant did not like the work environment, she began working for employer again in February 2015. According to claimant, the work environment was worse the first time she worked for employer. When employees called in sick, Owner Jennifer Stallman worked as a technician as opposed to her usual job which involved office duties. Stallman would fall behind on her own duties, which made her upset. When employees called in sick, Stallman did not make “small talk” with other employees for a few days as she was behind in her work and stressed out. Individuals in the workplace, including claimant, used profanity toward each other. Claimant never complained to Stallman about these issues until the day of her resignation. Stallman did not yell at or use profanity toward claimant.

Claimant called in sick at least 11 times since February 2015. On Monday, November 9, 2015, claimant sent a text message to Stallman stating she would be absent. Stallman replied by asking claimant how it was possible she was able to work her two side jobs over the weekend if she was ill and warned claimant if her absenteeism continued she would be terminated. After

exchanging several additional text messages with Stallman, claimant resigned her employment due to her dissatisfaction with the working environment.

REASONING AND CONCLUSIONS OF LAW:

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

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(21) and (28) provide:

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 § 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 § 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.

(28) The claimant left after being reprimanded.

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 chose to wait to resign until she was reprimanded for her absenteeism. This is not a good-cause reason attributable to employer.

Claimant asserts she had long been dissatisfied with the work environment. However, simple dissatisfaction with the work environment is not a good-cause reason attributable to employer for resignation. In order to be qualified for benefits, claimant would need to show the work environment would have been intolerable to a reasonable, objective person. Stallman did not yell or use profanity toward claimant. While profanity may have generally been used in the workplace, claimant never brought concerns regarding the issue to Stallman prior to her resignation. While Stallman may have been distant toward employees when they called in sick, a reasonable person would not have resigned under these job conditions. Furthermore, if the job conditions were intolerable, claimant would not have reapplied and resumed her employment with employer a second time.

In summary, claimant has not established she resigned her employment for a good-cause reason attributable to employer.

DECISION:

The December 1, 2015, (reference 03) unemployment insurance decision is affirmed. Claimant voluntarily left the 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.

Christine A. Louis
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Decision Dated and Mailed

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