

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LOUETTA T FINCH
Claimant

ABM INDUSTRY GROUPS LLC
Employer

APPEAL 18A-UI-01267-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/24/17
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 19, 2018, (reference 02) unemployment insurance decision that denied benefits based upon a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on February 22, 2018. Claimant participated. Employer did not register for the hearing and did not participate.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Is the claimant able to work and available for work effective December 24, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on January 16, 2017. Claimant last worked as a full-time janitor. Claimant was separated from employment on October 24, 2017, when she resigned.

From the start of her employment, claimant had issues with her supervisor, Charlene Hathaway.

Claimant is diabetic. In February 2017, claimant had an incident where her blood sugar was low and she was overdue to take her lunch break. Claimant told her team lead her blood sugar was low and she needed to eat lunch. The team lead instructed claimant to continue working. Claimant reported the incident to Hathaway, who was dismissive of her concerns and told claimant to bring snacks to work in the future.

Hathaway often instructed claimant to perform job duties, spoke to claimant in a stern voice on a daily basis, and once asked claimant to time herself when performing a job duty. Claimant also felt ostracized on one occasion where Hathaway would not let other employees go home early because claimant did not want to lose out on hours. Claimant frequently complained about Hathaway to management and asked to be transferred. Her requests were denied.

On October 18, 2017, claimant was pushing a big trash can and developed a horrible pain in her left hip. Claimant reported the injury and saw a doctor at Mercy Occupational Health. The doctor informed claimant she had pre-existing problems with her back so he did not deem claimant to have suffered a work injury. The doctor excused claimant from work for the next two days.

When claimant returned to work she had no restrictions. However, she still suffered from hip pain.

On October 24, 2017, claimant decided she could no longer tolerate to work for Hathaway and contacted senior project manager Bobby Lisbon. Claimant told Lisbon that if she was not able to transfer to work for another supervisor then she was submitting her two week notice of resignation. Lisbon said that he would not transfer claimant and that she did not have to work for two more weeks. Lisbon stated he considered claimant's resignation effective that day.

Claimant filed a claim for benefits effective December 24, 2017.

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 section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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(22) 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.

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).

In this case, claimant resigned because she did not get along with her supervisor, Charlene Hathaway. Although Hathaway may have been stern, claimant's description of the work

environment does not sound atypical from the conditions under which many employees work on a daily basis. This finding is bolstered by the fact that claimant was able to work under the same conditions for nearly ten months. The conditions were not intolerable. Claimant resigned because she simply no longer wished to work for Hathaway. This is not a good cause reason and claimant is disqualified from receiving unemployment insurance benefits based on this separation from employment.

Employer did not allow claimant to work the two weeks prior to her resignation date and instead discharged her. Although claimant may have been eligible for benefits during those two weeks, that is not at issue in this case as claimant did not file her claim for benefits until after those two weeks had long passed.

Because claimant is disqualified from receiving unemployment insurance benefits until she works and earns ten times her weekly benefit amount, the issue regarding whether she was able to and available for work from December 24, 2017, until present is moot and will not be discussed further in this decision.

DECISION:

The January 19, 2018, (reference 02) 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

cal/scn