

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BECKY J COLEMAN
Claimant

APPEAL NO. 11A-UI-08988-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

COUNCIL BLUFFS PAYROLL COMPANY
Employer

**OC: 06-12-11
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Leaving
871 IAC 24.26(4) – Intolerable Working Conditions

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 7, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on August 2, 2011. The claimant did participate. The employer did not participate. Claimant's Exhibit A was entered and received into the record.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a supervisor of occupation health services, full-time, beginning in June 2007 through February 4, 2011, when she voluntarily quit. In January 2011, the employer experienced a hazardous chemical event spill when over one thousand pounds of anhydrous ammonia was accidentally released. The claimant's supervisor, Darrin Austin, was out of town when the accident happened. In the one year period prior to the accident, the claimant's direct supervisor, Mr. Austin, made it clear that he wanted to replace the claimant with a "young fit man". He would make the claimant accompany him inside closets where he would berate her for imagined failure in her job duties. Prior to Mr. Austin becoming her supervisor, the claimant always received favorable job evaluations. When she went to human resources to seek assistance and to complain, she was not given any help at all, merely a "pep talk." Mr. Austin also asked the claimant to violate HIPAA regulations by turning over to him employee's private medical files that had nothing to do with any work-related injury or incident. When the claimant refused to violate the law, she was threatened with loss of her job. When another employee told the claimant that he could no longer see well enough to perform his job duties, the claimant reported the same to Mr. Austin. He told her that since they were so short employees, that employee should continue working despite the fact that he was a danger to himself and other employees in the plant. There is evidence now that since the claimant's discharge, the employer has been providing inaccurate information to the claimant's potential employers who call for job references.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment with 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.

871 IAC 24.26(2), (3), and (4) provide:

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:

- (2) The claimant left due to unsafe working conditions.
- (3) The claimant left due to unlawful working conditions.
- (4) The claimant left due to intolerable or detrimental working conditions.

Our Supreme Court recently concluded that, because the intent-to-quit requirement was added to 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

The undisputed evidence is that the claimant's supervisor, Mr. Austin created an intolerable and unlawful work environment for her. He required she violate HIPAA and OSHA regulation by granting him access to medical records he had no business reviewing and he ignored an employee's stated report that he could not see well enough to safely drive a forklift. Additionally, Mr. Austin's treatment of the claimant by pulling her into closets to yell at her is conduct that creates an intolerable work environment. The employer created an intolerable work environment for claimant that gave rise to a good-cause reason for leaving the employment. Benefits are allowed.

DECISION:

The July 7, 2011 (reference 01) decision is reversed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible. The benefits withheld shall be paid to claimant forthwith.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw