

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**MICHELLE A MAMMEL**  
Claimant

**GREG'S LAWN SERVICE INC**  
Employer

**APPEAL 17A-UI-03566-JCT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/05/17**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the March 23, 2017, (reference 01) unemployment insurance decision that denied benefits based upon separation. The parties were properly notified about the hearing. A telephone hearing was held on April 26, 2017. The claimant participated personally. The employer participated through Brad Mrstik, controller. Serena Robertson, human resources, attended as an observer. Employer Exhibit 1 and claimant Exhibit A were admitted into evidence.

The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntarily quit the employment with 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 full-time as a contract administrator beginning May 2016 and was separated from employment on March 8, 2017, when she quit without notice. Continuing work was available.

Prior to quitting, the claimant was issued a written disciplinary warning on March 3, 2017 in response to her attendance. The claimant acknowledged she had been absent frequently, but that it was due to verified dental issues. The claimant was upset by the reprimand, and her manager, told her that he thought discipline was warranted for the issue but could have been in the form of a verbal warning instead. The following week, the claimant observed owner, Greg Scharf not saying good morning to her, and appearing rude. On her final day of employment, she noted that he came over to her while she was talking to a co-worker, and advised them to get back to work, and also stood in her doorway and “rudely” reminded her of an 8:30 a.m.

meeting she had. The claimant acknowledged she was new to the meetings and had missed them before.

In addition, the claimant asserted she quit because she felt the company was dishonest, based on her dealings with billing and invoices between May 2016 and January 2017. The claimant shadowed a billing agent, Candy, for a short period of time. From her observations, she believed the employer was falsely billing customers, who would in turn, call and complain to have their invoices adjusted. The claimant never raised questions or concerns about the billing or allegations of dishonesty to any member of management, the owners, or human resources.

The claimant communicated her resignation via text message to Donna Scharf, co-owner. Ms. Scharf immediately responded by questioning why the claimant was leaving and what was wrong. The claimant did not respond or make the employer aware of any concerns that contributed to her decision to separate.

### **REASONINGS AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the 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(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.

Iowa Admin. Code r. 871-24.25(27) 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:

(27) The claimant left rather than perform the assigned work as instructed.

Iowa Admin. Code r. 871-24.25(28) 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:

(28) The claimant left after being reprimanded.

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. See 871 IAC 24.25. "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. Industrial Relations Commission*, 277 So.2d 827 (Fla. App. 1973). In the case of a resignation because of suspected illegal or unethical corporate behavior, the proper inquiry is whether a person of reasonable prudence would, in like circumstances, believe that improper or illegal activities were occurring at the place of work and that these activities necessitated the individual's quitting. *O'Brien v. Employment Appeal Board*, 494 N.W.2d 660 (Iowa 1993).

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.* After assessing the credibility of the claimant who testified during the hearing, considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge finds the weight of the evidence in the record establishes illegal, intolerable and/or detrimental working conditions that would cause a reasonable person to quit the employment without notice.

In this case, the claimant quit after employer owner, Greg Scharf, told the claimant to get back to work, reminded her of a meeting, and was not friendly to the claimant, following March 3, 2017, written warning for attendance. The administrative law judge is not persuaded the conversation, words used or conditions between the claimant and Mr. Scharf were inappropriate, given his level of authority, nor were they ever escalated to a point that would be deemed harassment or a hostile work environment, but rather due to personality conflict.

Further, the administrative law judge did not find the claimant's allegations of improper billing to be credible. It is concerning however, that if the claimant did in fact question the business

practices, why she never reported to any manager or human resource officer her concerns to clarify processes, or to make the employer aware of possible improper actions. Further it cannot be ignored that upon the claimant tendering her resignation, the employer co-owner, Donna Scharf, immediately responding by asking the claimant what was wrong or why, and the claimant refused to respond. This is not indicative of wanting to preserve employment or make an employer aware of genuine concerns (such as improper billing practices) in the workplace.

Rather, the credible evidence presented supports the claimant quit the employer because she did not agree with the supervisor about various issues. While the claimant's reasons for leaving the employment may have been good, personal reasons, they were not for a good cause reason attributable to the employer. Benefits are denied.

**DECISION:**

The March 23, 2017, (reference 01) 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.

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Jennifer L. Beckman  
Administrative Law Judge

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Decision Dated and Mailed

jlb/rvs