

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DANA R MILLER
Claimant

CARRIKER INC
Employer

APPEAL 19A-UI-02024-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/03/19
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 27, 2019 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit her employment for personal reasons. The parties were properly notified of the hearing. A telephonic hearing was held on March 22, 2019. The claimant, Dana R. Miller, participated. The employer, Carriker, Inc., did not register a telephone number at which to be reached and did not participate in the hearing.

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, most recently as a location manager and finance manager, from July 2018, until January 24, 2019, when she quit due to an unsafe work environment.

Claimant had a prior relationship with her co-worker, Kelly, with whom she ran the Knoxville branch. Kelly was engaging in multiple practices that were detrimental to the business. Claimant initially helped Kelly cover up some of these practices, but she stopped shortly before the end of her employment. On the evening of January 23, claimant called Owner Todd Carriker and told him that they needed to talk about Kelly. Claimant proceeded to tell Carriker about the damage she felt Kelly was doing to the business. At the end of the call, claimant and Carriker scheduled a meeting for 9:00 a.m. the following day.

On January 24 at 9:00 a.m., claimant and Carriker met and discussed the Kelly situation in further depth. At the end of this conversation, claimant went to work at the Knoxville location. When she got to Knoxville, Kelly was already at work. Over the course of the workday, Kelly proceeded to belittle, degrade, and threaten claimant. He knew claimant had talked to Carriker and blamed her for what he anticipated to be the end of his employment. Claimant texted Carriker to report what was happening, and she told Carriker she was afraid for her safety.

Carriker gave her permission to go home, but she did not leave immediately. Later that afternoon, Carriker texted her and told her that he had fired Kelly.

The following morning, claimant met again with Carriker. During this meeting, Carriker notified claimant that Kelly would not be fired and would continue to work for him. This meant that claimant would have to continue to run the Knoxville branch with him. Claimant told Carriker that she quit effective immediately. Claimant did not feel safe returning to work with Kelly.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant quit with good cause attributable to the employer. Benefits are allowed.

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. 871-24.26(2) 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.

(4) The claimant left due to intolerable or detrimental working conditions.

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). A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court recently concluded that, because the intent-to-quit requirement was added to rule 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. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

In this case, claimant was being threatened and verbally abused by her co-worker. Claimant reported this to the employer, and the employer took no action to help keep claimant safe in the workplace. Forcing claimant to continue to work with Kelly amounted to a detrimental and unsafe work environment. Claimant has established that she had good cause to quit her employment that is fairly attributed to her employer. Benefits are allowed.

DECISION:

The February 27, 2019 (reference 01) unemployment insurance decision is reversed. Claimant quit the employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn