

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

VIRGINIA G FIENE

Claimant

DICE CAREER SOLUTIONS INC

Employer

APPEAL 15R-UI-07529-DG

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/15

Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated April 10, 2015, (reference 01) that held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held in Des Moines, Iowa on July 30, 2015. Claimant participated in person with the assistance of Peter M. Sand, Attorney at Law. Employer participated in person by Angela Sharp, Human Resources Manager. Claimant's Exhibit A was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on April 14, 2015.

Claimant stated that she was given more duties to handle in November 2014. These were in addition to the other duties and accounts she was already handling before that date. Claimant immediately went to her supervisor with complaints about these additional duties, and asked that someone else take over some of her tasks. As of claimant's initial warning about her job in January, she had weekly meetings with a supervisor. At each of these meetings claimant asked her supervisor to have some of her tasks removed, but there were no adjustments ever made. Claimant also stated that she was harassed by employer on a near daily basis about the speed of her work and keeping up with all of the tasks assigned to her.

Claimant did not work at a pace as quickly as some other younger employees. Claimant asked employer if she could work overtime on the weekend in an attempt to stay caught up with work. Employer initially said no, then when claimant asked why so many other coworkers were allowed to work overtime, allowed claimant to work a couple of weekends. Near the time claimant quit, she had asked to work overtime, and was not allowed to do so. Claimant also missed a number of days through FMLA leave and felt that employer was upset about the number of missed days.

Claimant was further alienated by flippant comments about her age. Managers made comments to her such as, "a younger person could do the work". Claimant began to realize that she was targeted for termination from employment because the employer believed that she was too old, and did not fit in with the rest of the team. After being screamed at by management, and being humiliated at work claimant made the decision that she had to quit her employment. She gave her two-week notice of resignation on March 31, 2015.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because her work environment was hostile and intolerable.

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(4) provides:

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:

- (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). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

Individuals who leave their employment due to disparate treatment are considered to have left work due to intolerable or detrimental working conditions and their leaving is deemed to be for good cause attributable to the employer. The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Dep't of Job Serv.*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Emp't Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993).

Employer's discriminatory treatment of claimant created an intolerable work environment for her that gave rise to a good-cause reason for leaving the employment. Benefits are allowed.

DECISION:

The decision of the representative dated April 10, 2015, (reference 01) is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

dlg/pjs