

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**TEARA N DOWELL**  
Claimant

**RIVERBEND HOLDINGS LLC**  
Employer

**APPEAL 21A-UI-07431-JC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/11/20**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant/appellant, Tearra N. Dowell, filed an appeal from the March 9, 2021 (reference 03) unemployment insurance decision that denied benefits based upon her separation from employment. After proper notice, a telephone hearing was scheduled for May 21, 2021. At the time of the hearing, the claimant appeared personally. Teresa Brown participated on behalf of the employer. Kevin Brown, Mark McBride and Heidi Marshall were employer observers. Prior to testimony being taken, both parties indicated they had submitted proposed exhibits for the hearing, and the opposing party had not received them. The hearing was postponed.

After proper notice, a telephone hearing was held on June 22, 2021. The employer, Riverbend Holdings LLC., participated through Teresa Brown. Heidi Marshall, Mark McBride and Kevin Brown participated. Claimant, Teara Brown, participated personally. Tracy Martin, ex-employee, testified on behalf of claimant. Listed witnesses Lonnie Lewis and Mandy Brown did not.

The administrative law judge took official notice of the administrative records. Employer Exhibits 1-40 and Claimant Exhibits A through WWW were admitted into evidence. 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.

**ISSUES:**

Was the claimant discharged for disqualifying job-related misconduct?  
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: The claimant was employed part-time as an insides sales person and was separated from employment on January 21, 2021, when she quit the employment. Continuing work was available.

Claimant worked for this employer since 2014. She was originally hired to be full-time but due to personal circumstances and her inability to work her scheduled shifts, she moved into a part-time role, asking to work 9:00 to 3:00 (Employer Exhibit 28).

Claimant alleged work conditions had deteriorated based upon Teresa Brown's treatment of her. Claimant stated when employer had moved to a new computer system, that she was purposefully left out of trainings and unable to perform her job duties. She alleged it was "impossible" to do her job and felt Ms. Brown was conducting meetings without her on training and the new system. Ms. Brown acknowledged there had been meetings about training that did not include claimant because the training was for functions outside of claimant's job duties. Claimant and other co-workers had been given an email, manual and training modules and directed to perform self-guided training. Employer confirmed claimant had not ever tried to complete any training module or log on (Employer Exhibit 5) when she had separated. Training began in October 2020 (Employer Exhibit 6-7).

Prior to separation, claimant had repeatedly challenged employer's handling of matters and authority. This extended beyond Ms. Brown and included her direct manager, Kevin Brown (Claimant Exhibit SSS, Claimant Exhibit X). Claimant also began having more frequent absences and deviations to her schedule (Employer Exhibit 29-30) at the end of her employment. Employer had heard rumors claimant intended to quit the employment for self-employment, based upon social media postings leading up to separation.

Claimant was late to work on January 19, 2021, because she was picking up her child from the airport and did not request prior approval (Employer Exhibit 9). On January 20, 2021, claimant overslept and was late to work (Employer 10), and on January 21, 2021, the claimant text messaged management after her shift started to say she would be absent from work (Employer Exhibit 10). Employer noted that as of January 21, 2021, claimant had already cleared out her desk and belongings from her office (Employer Exhibit 17).

A text message and phone conversation (which claimant stated mirrored each other) occurred between claimant and Mr. Brown. When Mr. Brown commented on claimant's absenteeism, he told her she needed to be at work and both parties exchanged messages (Employer Exhibit 17-22). Claimant said, "what do you want? Do you want to fire me?" (Employer Exhibit 19) and continued to bait the employer, saying "Then fire me, Kevin" (Employer Exhibit 21). Separation thereby ensued.

#### **REASONING AND CONCLUSIONS OF LAW:**

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

The claimant has the burden of proof to establish she quit with good cause attributable to the employer, according to Iowa law. 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). "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).

Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code section 96.2. *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993)(citing *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986) "[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.*

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993).

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.

Based on the evidence presented, the administrative law judge is not persuaded the conversations, words used or conditions between the claimant and Ms. Brown were inappropriate, nor were they ever escalated to a point that would be deemed harassment or a hostile work environment, but rather due to personality conflict. A claimant who confronts his employer and demands that he be discharged and is subsequently discharged actually quits his employment. Job insurance benefits "are not determinable by the course of semantic gymnastics." *Frances v. IDJS*, (Unpublished Iowa App 1986). Claimant may have had personally compelling reasons to quit but failed to establish she quit for good cause attributable to the employer. Benefits are denied.

**DECISION:**

The unemployment insurance decision dated March 9, 2021, (reference 03) is AFFIRMED. The claimant voluntarily quit 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.

*Jennifer L. Beckman*

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July 7, 2021  
Decision Dated and Mailed

jlb/lj

**NOTE TO CLAIMANT:** This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are unemployed or continue to be unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

**ATTENTION:** On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.

You may find information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>

Iowa Finance Authority also has additional resources at <https://www.iowafinance.com/about/covid-19-ifa-recovery-assistance/>