

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARY ENDERTON
Claimant

ABCM CORPORATION
Employer

APPEAL 21A-UI-03719-SN-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/08/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit
Iowa Admin. Code r. 871-24.26(4) – Intolerable working conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 12, 2021, (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on March 30, 2021. Claimant participated and testified. The employer participated through Administrator Kasey Sandbulte and Assisted Living Manager Robin Meyer. No exhibits were entered into the record.

ISSUE:

Was the separation a layoff, discharge for misconduct or voluntary quit 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 full-time in two different roles from January 15, 2020, until she was separated from employment on November 8, 2020, when she quit. The claimant began her employment with the employer as a cook. The claimant was then moved to the position of universal worker. The claimant's immediate supervisor was Assisted Living Manager Robin Meyer.

After moving to the universal worker position, the claimant started working with another universal worker, Jessica Egeland. Ms. Egeland worked from 6:00 a.m. to 6:00 p.m. The claimant's shift was from 6:00 a.m. to 2:00 p.m. Ms. Egeland was very overbearing and criticized the claimant's work frequently. For example, Ms. Egeland said the claimant served lunch too slowly to the residents and made an effort to run around the lunch room to demonstrate how it should be done. Ms. Egeland also frequently criticized how the claimant performed job duties related to laundry. Ms. Egeland also yelled at the claimant frequently. Ms. Egeland did not use profanity to disparage the claimant.

On October 22, 2020, the claimant told Ms. Meyer she would be resigning that day. After some conversation, the claimant stated she could give two-weeks' notice with her effective resignation

date on November 5, 2020. The claimant was too upset to talk to Ms. Meyer about what occurred on that day.

On October 27, 2020, Ms. Meyer sat down with Ms. Egeland and the claimant about being respectful to one another and working as a team. Ms. Meyer specifically admonished both employees for discussing these issues with tenants because she had received reports from tenants they had done so.

On November 2, 2020, Human Resources Coordinator Tatum Luchsinger offered to return the claimant back to her position in the kitchen. The claimant rejected this offer because she felt like Ms. Egeland should move due to her belligerent and obnoxious behavior.

At 2:20 p.m. on November 7, 2020, the claimant was making cookies for the residents. Ms. Egeland removed the cookies from the cookie sheet and placed them back in the refrigerator. This prompted the claimant to walk off the job because there was no reason for Ms. Egeland to treat her like she did not know anything.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

Iowa Code section 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 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:

(3) The claimant left to seek other employment but did not secure employment.

(21) The claimant left because of dissatisfaction with the work environment.

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.

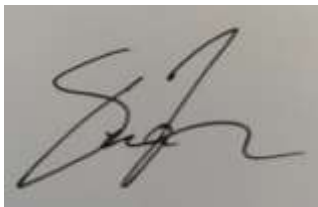
Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). A 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).

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See Iowa Admin. Code 871-24.26(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). An employee who receives reasonable expectation of assistance from employer after complaining about working conditions must complain further if conditions persist in order to preserve eligibility for benefits. *Polley v. Gopher Bearing Company*, 478 N.W.2d 775 (Minn. App. 1991).

The administrative law judge cannot find the work environment was intolerable to a reasonable person here. This is especially the case given the efforts the employer had made in response to her complaints. The employer offered to return her to her prior position and was coaching Ms. Egeland about improving her behavior. While claimant's leaving may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. This is not to condone Ms. Egeland's behavior. It is merely observing that the standard for showing a reasonable employee would find the work environment intolerable is a high one. Benefits are denied.

DECISION:

The January 12, 2021, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left her 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.



Sean M. Nelson
Administrative Law Judge

April 01, 2021
Decision Dated and Mailed

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