

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

ROBERT J FAVA
Claimant

APPEAL NO. 06A-UI-09232-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WESTAFF USA INC
Employer

OC: 08/13/06 R: 02
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Robert J. Fava (claimant) appealed a representative's September 7, 2006 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Westaff USA, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 3, 2006. The claimant participated in the hearing. Donna Martinez appeared on the employer's behalf. Based on the evidence, the arguments of the parties, 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 for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on September 23, 2000. He worked full time as branch manager of the employer's Des Moines, Iowa, office of its temporary employment firm. His last day of work was July 17, 2006.

On July 7 he submitted notice of resignation to be effective August 4. On July 10, Ms. Martinez, acknowledged and accepted the resignation, but indicated that only two weeks' notice was necessary, so that July 21 would be his last day. He had previously been scheduled for vacation July 19, July 20, and July 21, so in effect July 18 would be his last day. On July 14 the claimant suggested by email that that could be his last day; Ms. Martinez was unable to respond until July 17 but agreed that could then be his last day. The claimant established an unemployment insurance benefit year effective August 13, 2006.

The claimant's reason for quitting was that Ms. Martinez had become the regional vice president over the Iowa and Des Moines market as of May 12. She had previously been a district manager for a neighboring district, and the claimant had felt at a regional meeting in March 2006 that Ms. Martinez had been demeaning in raising questions during a presentation he and others were making. After she became regional vice president, the claimant heard from two

other regional vice presidents that Ms. Martinez did not want him to continue working for the employer, that she felt he only had kept his job due to a friendship with the prior regional vice president. Ms. Martinez denied having or voicing any opinion that the claimant should not continue in his employment with the employer or as a branch manager, but acknowledged that at a national meeting there had been a focus on branches that generally were not profitable, including the Des Moines branch, and that she had commented that there may not have been appropriate intervention in the past due to a friendship with the prior regional vice president.

The claimant also felt that he was being “managed out,” because a regional training and personnel consultant who also worked in Ms. Martinez’ office had, in mid to late June, made him aware of a job opportunity outside the employer and encouraged him to pursue it. Ms. Martinez had not been aware of the suggestion; the claimant had previously shared concerns with this consultant regarding his unhappiness working under Ms. Martinez’ management. The claimant became subsequently concerned to learn that the consultant had shared with Ms. Martinez that the claimant and other branch managers had concerns regarding her management style. The claimant felt that Ms. Martinez was unprofessional in her direct manner of confronting issues, such as referring to a problem client as a “frigging psycho,” and in calling staffers “my dear.” He felt he had been publicly reprimanded when at a June 27 quarterly regional meeting he was the only branch manager who was publicly directed to prepare an action plan to bring the Des Moines office into profitability. However, the claimant had not received any prior disciplinary actions. If he had not resigned, his position would still have been available to him.

The claimant also felt Ms. Martinez did not know enough about the on-site situation before making directives, such as when, in May, she had indicated that the two on-site personnel consultants who reported to the claimant, but were located on-site at a client’s facility, were subject to the general requirement of doing telephone marketing for new business. Ms. Martinez had subsequently withdrawn that requirement under the understanding that these personnel consultants would be making direct contact with other departments of the business client to try to encourage new or additional business from the client.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for 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.

871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or

detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (23). Quitting because a reprimand has been given is not good cause. 871 IAC 24.25(28). Quitting because of a belief that his job performance was not to the satisfaction of the employer is not good cause where, as here, the employer had not requested the claimant to leave and continued work was available. 871 IAC 24.25(33). The claimant has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). The claimant has not satisfied his burden. Benefits are denied.

DECISION:

The representative's September 7, 2006 decision (reference 01) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of August 4, 2006, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw