

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER A STUMBO
Claimant

APPEAL NO. 16A-UI-09618-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CITY OF OGDEN
Employer

OC: 08/07/16
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated August 23, 2016, reference 01, which denied unemployment insurance benefits finding the claimant voluntarily quit work on August 5, 2016, for personal reasons. After due notice was provided, a hearing was held on September 21, 2016. Claimant participated. Participating on behalf of the claimant was Mr. Andrew Zbaracki, Attorney at Law. The employer participated by Mr. Lee Johnson, City Attorney, and Mr. Dennis Good, Mayor. Claimant's Exhibits A through I and Employer's Exhibits One and Two were admitted into the hearing record.

ISSUE:

The issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Jennifer Stumbo was employed by the City of Ogden beginning on July 30, 2012. Ms. Stumbo was employed as a city clerk/administrator/treasurer on a full-time basis and was paid by salary. Claimant answered directly to the Ogden City Council.

On June 23, 2016, Ms. Stumbo submitted her letter of resignation to be effective July 1, 2016. Ms. Stumbo cited numerous allegations that had been made by a short-term employee who quit her job as the reasons for ending the employment. Ms. Stumbo had been informed the preceding day that Kristi Thede had alleged in her resignation letter that Ms. Stumbo had failed to perform a number of her job duties while Ms. Thede was employed in the office. The claimant had also sent a letter addressing each of Ms. Thede's allegations and requesting a response from the mayor and/or city council.

Ms. Stumbo had received a number of positive responses from city council members and the effective date of the claimant's resignation was delayed until after July 1, 2016 while efforts were being made by the city to respond to some of the concerns that Ms. Stumbo had brought to their attention.

After considering the changes that were being offered or implemented, Ms. Stumbo made a decision to nevertheless leave her employment effective August 5, 2016.

It is the claimant's position that employees under her direction were not following the suggestions or directives that she had given to them and that a relative of Ms. Thede, who was also employed by the city, was not following instructions on reporting his work hours. Ms. Stumbo also believed that the tone and vibe of the city chief of police was not appropriate and had complained. Ms. Stumbo also believed that the residents of the city had become generally aware of the allegations that the ex-employee had made against her and that Ms. Stumbo did not have an effective way to gain the trust and good working relationships after Ms. Thede had made the allegations against Ms. Stumbo. Ms. Stumbo also believed that the stress involved with her employment and recent events were having a negative effect upon her health.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the evidence in the record establishes that the claimant left employment with good cause that was attributable to the employer. It does not.

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. 871-24.25(6) and (21) 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:

(6) The claimant left as a result of an inability to work with other employees.

(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.

A claimant is not qualified to receive unemployment insurance benefits if he or she voluntarily quits employment without good cause attributable to the employer. Section 96.5-1. The claimant bears the burden of showing good cause for leaving attributable to the employer.

In the case at hand, the evidence in the record establishes that Ms. Stumbo had chosen to leave her employment primarily because a short-term employee of her department had left making numerous accusations that Ms. Stumbo was not fully performing the duties of her job. The claimant had also been dissatisfied because that employee as well as others had not been responsive to her work directives. The claimant, however, had the authority to issue warnings and disciplinary actions to employees who were not following reasonable work directives or acting in a manner that was inconsistent with the employer's reasonable expectations. Ms. Stumbo chose not to do so.

When Ms. Stumbo complained about the contents of the short-term employee's resignation letter, the City of Ogden was willing to consider the claimant's concerns and attempted to work with Ms. Stumbo in resolving them so that the claimant could remain employed in her job position. The employer made a decision to take no action against Ms. Stumbo based upon the unsubstantiated allegations made by the departing employee, but instead made the claimant aware of the city's support and willingness to help initiate change. Although apprised of the position of the city and their offers, Ms. Stumbo, nevertheless, chose to leave her employment, although she did delay the effective date of her leaving while the parties attempted to work out changes.

Although the city was willing to implement numerous changes to make the claimant's job easier and employees more responsive, the city could not control adherence by employees to Ms. Stumbo's expectations unless the claimant herself was willing to enforce the rules in her work department. The city had no way of controlling other things such as gossip, etc.

After considering the employer's responses, Ms. Stumbo, nevertheless, decided it was in her best interest to leave the employment and did so effective August 5, 2016.

While the reasons for Ms. Stumbo's leaving were undoubtedly good personal reasons, for the above-stated reasons the administrative law judge concludes that they were not good cause reasons that were attributable to the employer. Accordingly, the claimant is disqualified for unemployment insurance benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

DECISION:

The representative's decision dated August 23, 2016, reference 01, is affirmed. Claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs