

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SUSAN A ERH
Claimant

PATHWAYS BEHAVIORAL SERVICES INC
Employer

APPEAL 17A-UI-02227-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 02/05/17
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.25(6) – Inability to work with other employees
Iowa Admin. Code r. 871-24.25(37) – Employer Accepted Resignation
Iowa Admin. Code r. 871-24.26(4) – Intolerable Working Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 23, 2017, (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on March 30, 2017. The claimant participated and testified. The employer did not participate.

ISSUE:

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: Claimant was employed full time as a community support coordinator from July 2, 2002, until this employment ended on February 10, 2017, when she voluntarily quit.

On January 25, 2017, claimant approached her supervisor, Scott Dickinson, and told him she was offering her resignation effective February 10, 2017. Claimant explained to Dickinson she was leaving due to the way she was being treated by a coworker in another department. Claimant testified this coworker would often criticize her work performance and make comments about taking over claimant's program. On one occasion the coworker reported to the executive director that claimant had not completed treatment plans for approximately 30 patients. Claimant spend a considerable amount of time one Saturday going through the computer system to find these treatment plans and was able to show 85% of them had been completed. Claimant testified this particular coworker was generally rude to her, but knew where to stop before crossing the line. The coworker did not engage in any sort of name calling or threats of physical violence. Claimant filed two grievances, but was told nothing would be done. Claimant later asked at least three times to rescind her resignation, but the employer said no each time.

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. 871-24.26(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.

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:

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

....

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

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).

Claimant quit because she was unhappy with the way she was being treated by a coworker. Certainly no one enjoys having their work criticized, especially when they feel the criticism is not warranted. While it is understandable that claimant would be upset with her coworker's criticism of her performance, her coworker's actions did not amount to intolerable working conditions for the purposes of unemployment insurance benefits. Claimant's coworker did not use language that the average person would find foul or abusive, nor were any threats of physical violence made. 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. Once claimant submitted her resignation and the employer accepted it, it is under no obligation to agree to a rescission on the resignation. Benefits are denied.

DECISION:

The February 23, 2017, (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 is deemed eligible.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

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