

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

SONYA K ZIMMERMAN
Claimant

MONTICELLO FAMILY DENTISTRY PC
Employer

APPEAL 14A-UI-12423-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/02/14
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 24, 2014 (reference 02) unemployment insurance decision that denied benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on December 23, 2014. Claimant participated. Employer opted not to participate and submitted letters dated November 11 and November 19, 2014 in lieu of participation. Employer's Exhibit One (3 pages) was received.

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 part time as a dental assistant and was separated from employment on November 6, 2014 when she quit. On November 4 employer Brian James, D.D.S. demanded claimant work on her day off because of another employee's illness. Another coworker covered the shift, but he yelled at her for saying she could not work because she had plans for the day. She told him she thought he was being ridiculous and she would cancel her plans and work. She did not quit because of that situation but on November 6 James called a staff meeting to address their dispute on November 4. During the staff meeting employer James also brought up and discussed her miscarriage, saying he could not believe she took the time off and he paid her for it. In the summer of 2014 James became angry with a new front office employee for not collecting a payment from a patient and pulled the staff into the back of the office, yelling and swearing at them not to let it happen again while punching his fist into his hands. In 2011 when claimant told James about her pregnancy and he tossed his pen in her direction and made a hostile comment to her about that being just what was needed. She had not given James permission to disclose that information to others and James' discussion of her miscarriage with employees and his spouse at the staff meeting was the last straw.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily left the employment with good cause attributable to the employer.

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. 871-24.26(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 notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court recently concluded that, because the intent-to-quit requirement was added to rule 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

No employee should have to endure intimidation, belittlement, embarrassment, yelling, or bullying behavior in order to retain employment or avoid disqualification from unemployment insurance benefits. An employee is entitled to have their personal medical situation kept private even though the employer may legitimately need that information for business-related reasons. James created an intolerable work environment for claimant by reprimanding her in front of others and discussing her miscarriage at the same staff meeting. That behavior gave rise to a good cause reason for leaving the employment. Benefits are allowed.

DECISION:

The November 24, 2014 (reference 02) unemployment insurance decision is reversed. Claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible. The benefits withheld shall be paid.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/can