

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TRINA L HOLMES
Claimant

OPTIMAE LIFESERVICES INC
Employer

APPEAL 17A-UI-03609-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/05/17
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(21) – Dissatisfaction with Work Environment

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 23, 2017 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit her employment without good cause attributable to the employer. The parties were properly notified of the hearing. A telephone hearing was held on April 26, 2017. The claimant, Trina L. Holmes, participated. The employer, Optimaе Lifeservices, Inc., did not register a telephone number at which to be reached and did not participate in the hearing. Claimant's Exhibit A was received and admitted into the record.

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, most recently as a service coordinator, from July 6, 2016, until March 6, 2017, when she quit. On February 23, 2017, claimant had to cover a night shift for one of the employees she supervises. That evening, an employee reported to one or more coworkers that claimant "reeked of alcohol" when she came to work that night. Eventually, the house manager learned about this and reported it to Connie Dunsmore, claimant's supervisor.

Claimant learned about this allegation on March 6, when one of the clients reported that during a weekend outing everyone (including clients and staff-members) was gossiping about claimant. Claimant immediately reported this to Dunsmore, who said she would address the issue but could not do so immediately. Claimant felt that "the irreparable damage had already been done" to her reputation, so she quit. Claimant noted that the week prior, the house manager was not listening to claimant and rolled her eyes and shook her head at her, indicating that the house manager no longer respected her.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the separation was without good cause attributable to the employer. Benefits are withheld.

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 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.

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). Here, claimant learned that her coworkers had been gossiping with clients about the fact that claimant allegedly smelled like alcohol when she came to work on one occasion. Claimant was understandably embarrassed and bothered upon learning this information. However, the average employee in claimant's situation would not have felt similarly compelled to quit employment at that point.

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 intended to quit her job due to perceived reputation damage. Claimant delivered resignation letters to her supervisor and to HR and she left her employment. Claimant's decision to end her employment was without good cause attributable to the employer. Benefits are withheld.

DECISION:

The March 23, 2017 (reference 01) unemployment insurance decision is affirmed. Claimant separated from 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.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed