

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**ASHLEY K UHLENHOPP**  
Claimant

**TWI OF DUBUQUE INC**  
Employer

**APPEAL 18A-UI-06982-NM-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/03/18  
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the June 25, 2018, (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on July 26, 2018. Claimant participated and testified. Employer participated through Field Educator Janet Rose. Claimant's Exhibits A through C were received into evidence.

**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 began working for employer on May 10, 2017. Claimant last worked as a full-time salon director. Claimant was separated from employment on June 7, 2018, when she voluntarily quit.

On May 31, 2018, claimant's supervisor, Ashely Kelley, went on maternity leave. Kelley had been covering the managerial duties of the employer's store in Cedar Falls, with claimant at the Waterloo location. Both locations were large enough to have both a manager and assistant, but neither had an assistant. Claimant offered to cover the managerial tasks at the Cedar Falls location when Kelley went on leave. On Thursday, June 7, 2018 claimant sent a message to Rose explaining that she was feeling overwhelmed and would like to use some of her paid time off (PTO) in order to recuperate. (Exhibit B). Claimant wanted to take off Monday, June 11 through Friday, June 15 and had arranged for other employees to cover her hours in both stores. Rose sent claimant a message back stating that she understood and would like to meet with her the following day to discuss a plan.

Rose testified she was willing to give claimant time off, but needed time to develop a plan not just for store coverage, but for managerial coverage as well, as claimant was the only manager for both the Waterloo and Cedar Falls stores. Claimant initially agreed to meet with Rose on June 8, but changed her mind following a phone call between the two. During the phone call

Rose indicating to claimant that it was not going to be possible for her to take the next week off, but that she would like to reach a compromise. Claimant found this unacceptable and submitted her resignation effective immediately. (Exhibit C).

### **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. 871-24.25 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:

(25) The claimant left to take a vacation.

...

(27) The claimant left rather than perform the assigned work as instructed.

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).

Although an oppressive work schedule may be considered a good cause reason to resign, claimant has not met her burden in showing she was subjected to such conditions. It is entirely understandable that claimant was feeling overwhelmed and needed time off work. However, it was completely reasonable for the employer to deny claimant's request, given that she was the only manager for two stores and gave just four days advance notice. The employer did not tell claimant she could never take a vacation, but simply requested she sit down with Rose to find a time when proper coverage could be ensured. 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. Benefits are denied.

**DECISION:**

The June 25, 2018, (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 has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Nicole Merrill  
Administrative Law Judge

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Decision Dated and Mailed

nm/rvs