

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DIANE VALANT
Claimant

AJS/JAS LLC
Employer

APPEAL 15R-UI-08903-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/19/15
Claimant: Appellant (1R)**

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 13, 2015, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on June 25, 2015; in front of Administrative Law Judge Stephanie R. Callahan. Claimant participated. Employer did not participate. Judge Callahan issued a decision on June 26, 2015 allowing the claimant benefits. The employer appealed to the Employment Appeal Board (EAB) who remanded for a new hearing that would allow the employer to participate. After due notice was issued another hearing was held on September 14, 2015. The claimant participated. The employer participated through Kris Konrady, General Manager. Claimant's exhibit one was entered and received into the record. Employer's Exhibits A through D were entered and received into the records. Department's Exhibit D-1 was entered and received into the record.

ISSUE:

Was the claimant discharged due to job-connected misconduct or did she voluntarily quit her employment without good cause attributable to the 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 purchasing manager beginning on September 5, 2008 through April 1, 2015 when she voluntarily quit.

The company was owned and managed by Anita prior to the fall of 2014 when it was sold to Andy and Jason. In February 2015 the new owners promoted Kris Konrady, a long-term employee like the claimant to be the general manager. It was made clear to all employees, including the claimant, that Mr. Konrady would be her direct supervisor. In a meeting in February 2015 each of the five employees was told that Mr. Konrady would be the supervisor. The claimant did not like having Mr. Konrady as her supervisor and often went over his head to the owners directly.

On March 12 via e-mail and discussion the claimant was told that if she was going to be absent for doctor's appointments she would need to provide a doctor's note to Mr. Konrady. The

claimant was angry when told this and told Mr. Konrady, she did not like being treated like a child and that he could consider her as having given her two-week notice. The claimant then began to have discussions with the both of the owners via e-mail, in person and by telephone including leaving voice mail messages for them. The owners both told Mr. Konrady to deal with the claimant's issues.

During a lunch meeting on March 17 with Mr. Konrady, Anita and the claimant, Mr. Konrady apologized to the claimant for his misinterpretation of the attendance policy. At no time did Mr. Konrady treat the claimant in anything other than a respectful manner. He never used profanity, or raised his voice towards her. Prior to Mr. Konrady becoming the claimant's supervisor, the two of them had a good relationship. During the lunch meeting the claimant was specifically asked by both Anita and Mr. Konrady if she was going to rescind her resignation. The claimant told both of them she had not yet made up her mind.

Both of the owners stopped returning the claimant's telephone calls. The claimant never indicated to anyone, Mr. Konrady, or either of the two owners that she was rescinding her two-week resignation that she had put in on March 12. The claimant continued to work. The owners were under no obligation to meet with the claimant and were within their rights to have their designated general manager, Mr. Konrady deal with the situation. While the claimant may not have liked it, she was not allowed to tell the owners how to run the business.

The sole issue that claimant identified at hearing for why she was resigning was Mr. Konrady asking her to provide a doctor's note. He clarified with her on March 17 the attendance policy going forward. The claimant was not being treated any differently than any other employee, including the former owner who also directly reported to Mr. Konrady. Mr. Konrady did not create any type of intolerable or hostile work environment for the claimant. At hearing the claimant was simply unable to articulate with any clarity what issue had to be resolved by the owners before she would withdraw her notice of resignation. The attendance policy issue had been resolved. The claimant was still working her regular hours. The owners were trying to give the claimant more time off by giving her every other Friday off work, without any reduction in her pay as they believed the claimant was simply working too many hours.

By March 31 or April 1 the claimant still had not rescinded her resignation. Mr. Konrady asked her again if she wanted to withdraw her two-week notice she had put in on March 12. The claimant would not withdraw the notice, so Mr. Konrady told her that the employer was accepting her resignation.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without 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. 871-24.25(6), (22) and (37) provide:

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 § 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 § 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.

(22) The claimant left because of a personality conflict with the supervisor.

Iowa Admin. Code r. 871-24.25(37) 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 § 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 § 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:

(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). 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).

The claimant put in her two-week notice because she was angry about being asked to provide a doctor's note. That situation was resolved quickly and in the claimant's favor. No workplace issues or problems. But the mere fact that a problem or issue occurs does not automatically give rise to good cause attributable to employer for the claimant quitting. The claimant has not established any type of hostile or intolerable work environment. The claimant simply did not want to report to Mr. Konrady as her supervisor and because she believed the employer thought her irreplaceable, she would not have to. Mr. Konrady did not mistreat the claimant at all in any way. The claimant was not allowed to demand that the owners meet with her to appease her. She was told by Mr. Konrady that he was going to handle the situation. The claimant simply has not established any good cause attributable to the employer for her decision to voluntarily quit the employment. The employer was willing to allow the claimant to continue working, but the claimant would not agree to rescind her resignation. The employer

then accepted the claimant's resignation when more than two weeks had passed. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The May 13, 2015 (reference 01) 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.

REMAND:

The claimant's overpayment of unemployment insurance benefits is remanded to the Unemployment Insurance Service Center for additional action.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css