IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

68-0157 (9-06) - 3091078 - EI

JOHN GRAY
Claimant

IOWA STATE UNIVERSITY
Employer

APPEAL NO. 10A-UI-01956-E

ADMINISTRATIVE LAW JUDGE DECISION

Original Claim: 01-03-10
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 27, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held in Des Moines, Iowa, before Administrative Law Judge Julie Elder on March 29, 2010. The claimant participated in the hearing with his sister, Cathy Davis. Mallory Schon, Human Resources Specialist, and Kari Ruba, Human Resources Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his 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: The claimant was employed as a full-time supervisor of plant services for the Iowa State University Athletic Department from April 22, 1994 to December 15, 2009.

He submitted his informal resignation letter November 18, 2009, and provided the employer with a formal resignation letter December 15, 2009. The claimant brought several issues to the employer's attention prior to his resignation. The general human resources department, rather than the athletic department's human resources department, hired a student worker who was the brother of the claimant's supervisor's supervisor, and the claimant was upset about the situation because he felt it was nepotism and had difficulty with the student worker's performance and attitude and felt he did not put forth the effort that other students did and that he had to keep that student because of who his brother was. That student worked for the claimant from August 6, 2007 to January 2009, when he was released in part due to the claimant's complaints.

In May 2009 the claimant told his supervisor that a coach was yelling at his staff. The claimant's supervisor forwarded his complaint to senior staff and they addressed the situation with the coach and his supervisor. The coach left the university September 8, 2009. The claimant was frustrated with the number of hours his student workers were being required to work because

the department was short-staffed. In August 2009 the employer allowed him to give raises, pay overtime, and hire more students so the others did not have to work so many hours.

The claimant's main complaint was about facility mechanic Dick Doyle. The claimant was told to try to keep students away from him because he was considered unsafe on some occasions. Mr. Doyle was suspended two to three years ago after a student was hit in the head by a cable while working with Mr. Doyle and the employer fought two grievances by Mr. Doyle to make sure the suspension stuck. He made several complaints against Mr. Doyle and the employer took disciplinary action against him on different occasions, but the claimant would generally not know of any disciplinary action against Mr. Doyle. The last performance evaluation the claimant did regarding Mr. Doyle did not mention safety issues. Although the claimant wanted Mr. Doyle's employment terminated, the employer could not discharge him because the incidents complained of were not current acts of employment and Mr. Doyle was a union employee, which required more stringent steps and requirements be fulfilled before a termination could occur. Mr. Doyle submitted his retirement papers before June 30, 2009, and the claimant was aware Mr. Doyle would be retiring in January 2010. Mr. Doyle was in charge of the headsets on the sidelines during football games and told another employee that the employer may have to hire a retired employee, inferring it would be him, to run the headsets during the next football season. The claimant went to his supervisor, who told him not to worry about it, but, because of the budget, they would have to keep all options open. The claimant "snapped" and decided to submit his resignation rather than risk working with Mr. Doyle in the fall of 2010, even though Mr. Doyle was not hired to do that job after all. The claimant did seek mental health counseling in the fall of 2009 and his psychiatrist recommended he quit his job because he was experiencing mental anguish, but the claimant decided against that recommendation at the time because he wanted to fulfill his duties during the football season and winterize the stadium, plus he loved the university; but, he felt he was going to "lose it," and felt "out of control." He testified the final event was his belief that Mr. Doyle would return to run the headsets during the 2010 football season.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment 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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

While the claimant was obviously very loyal to the university and loved working there before his issues and concerns overwhelmed him, many of the incidents he spoke of happened in the past and were addressed by the employer when brought to its attention and it was in a position to

take action regarding those situations. The claimant was not always satisfied with the steps the employer took to resolve his concerns—for example, the student who was hired who had a brother in the athletic department—but the employer did discipline Mr. Doyle about the safety issues and allowed the claimant to give his student workers raises, pay them overtime, and hire more so they did not have to work so many hours. Despite those actions, however, the claimant continued to be concerned about Mr. Doyle and "things going on that went against (his) integrity and beliefs." He was especially concerned about having to continue to work with Mr. Doyle even though he knew in June 2009 Mr. Doyle was retiring in January 2010. Although he did hear, and apparently believed, rumors that Mr. Doyle might be back to run the sideline headsets for the football games, that was never confirmed to him and did not happen, even though he cited that as the proverbial last straw that caused him to resign his position when he did. "Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. Uniweld Products v.Industrial Relations Commission, 277 So.2d 827 (Florida App. 1973). While the claimant was definitely upset about the work environment, he has not demonstrated that his leaving was due to unlawful, intolerable, or detrimental working conditions as defined by Iowa law. Therefore, benefits must be denied.

DECISION:

The January 27, 2010, reference 01, decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Julie Elder
Administrative Law Judge

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Decision Dated and Mailed

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