

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

JANET C GARDEN

Claimant,

and

FAMILY COMMUNITY CREDIT UNION

Employer.

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HEARING NUMBER: 13B-UI-03123

**EMPLOYMENT APPEAL BOARD
DECISION**

N O T I C E

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-1

D E C I S I O N

UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE

The employer appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board, one member dissenting, reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED**.

John A. Peno

Cloyd (Robby) Robinson

DISSENTING OPINION OF MONIUQE F. KUESTER:

I respectfully dissent from the decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge in its entirety. When viewing this record as a whole, not only do I find the Claimant's testimony not credible, but I fail to see how the evidence supports that the President of the Credit Union, Ms. Swaningson, created intolerable/detrimental working conditions in the workplace.

The reasons asserted by the Claimant(s) as a basis for the detrimental working conditions are as follows:

- The manager was distant;
- she kept the door closed to prevent face-to-face communication;
- didn't communicate verbally with staff only via email;
- failed to "joke around with the staff, only took care of business;" (Tr. 31)
- caused staff to "feel uncomfortable and pressured at work, was rude, hostile, and never complemented the staff on our work;" and (Tr. 41, 49)
- failed to join the staff for coffee or small talk. (Tr. 53)

I believe the 'bottom-line' issue was that prior management was somewhat lax in management style as compared to management at the time of the big walk-out. Based on the prior president, Mr. Michael Schear's testimony, he worked with Ms. Swaningson for only a short time and there was very little training.

It's clear from the record that Schear never issued any discipline to any of the Claimants. (Tr. 24) He had an "...open door policy...[he] was out talking to them all the time..." (Tr. 25) This testimony clearly shows a distinct difference in management style, which does not corroborate that the Claimants were under any oppressive supervision once Ms. Swaningson assumed the management role. Her style was merely different than what the Claimants were accustomed to. The fact that they didn't 'like' her management style is not commensurate with detrimental and intolerable working conditions.

The prior lack of any disciplinary issues and the absence of the "warm fuzzy" management style further corroborates that the sole issue was that once the new person came on board, the existing staff refused the change and developed their own little group with their own set of rules. Such behavior was likened to 'mass insubordination' and grounds for termination based on misconduct; not a voluntary quit.

The Claimants' 'staged walk-out' can only be considered a voluntary quit without good cause attributable to the employer based on the lack of evidence to support their arguments. To say that the Claimants suffered intolerable or detrimental working conditions is absurd when viewing this record as a whole. I find it reasonable and creditable that any administrative changes were done to ensure that the CCU was in compliance with all applicable laws and regulations. There is no evidence to support that any of the Claimants were placed in physical harm; forced to perform any illegal or morally compromising actions; or abused physically, verbally or emotionally as a result of these changes.

It is clear that in this situation, the Claimants were unable to adjust to the changes and had a conflict of personality with their supervision, which again, is not good cause to quit attributable to the employer. See, 871 IAC 24.25(22). Any reasonable person would understand that a company's institution of policies to ensure proper time reporting (Tr. 59), compliance, and trying to achieve consistent procedures in the event that anyone was absent, can in no way be construed as harmful or detrimental.

Lastly, I do not believe that the Claimants informed the supervisor, Ms. Swaningson, of the issues before choosing to go over her head to the board. They further failed to allow the process to run its course before taking drastic action. Ms. Swaningson was only in the position for two months and failed to have time to work with the employees to come to a solution that would allow everyone to get along. Based on this record, I would conclude that the Claimant failed to satisfy her burden of proving that her quit was with good cause attributable to the employer. As such, benefits should be denied.

Monique F. Kuester

AMG/fnv