

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JULIE A ANDERSEN
Claimant

RADIOLOGISTS OF NORTH IOWA P C
Employer

APPEAL NO. 17A-UI-12239-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/29/17
Claimant: Appellant (1)**

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated November 17, 2017, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on December 18, 2017. Claimant participated and had witnesses Ashley Graham and Tori McCready. Employer participated by Carol Kelley. Employer's Exhibits 1-3 were admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on October 30, 2017. Claimant quit her employment on November 1, 2017.

On October 30, 2017, claimant had a dispute with a co-worker concerning what documents were to be copied. Claimant stated that she became frustrated with a colleague challenging her for copying documents that she was told not to. The colleague was not a supervisor, but rather a co-worker. Claimant said that both parties were yelling at one another, although employer's investigations indicated that claimant was the only party using foul language and yelling. Claimant admitted standing up to the co-worker, but stated the co-worker was a large and intimidating woman.

Claimant called in and did not report on October 31, 2017. Employer asked to meet with claimant early on November 1, 2017. Claimant came in and met with employer. Employer had prepared a written warning for claimant. Employer asked for claimant to sign for the receipt of the written warning and claimant refused. Claimant responded, first saying that she quit, and then later stating that she was fired. Employer explained that claimant wasn't fired, but did need to sign for the receipt of the document. Claimant walked out of the meeting and the office.

Claimant stated that employer told her that she was terminated and that she didn't walk out but rather was told to leave.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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(28) 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:

(28) The claimant left after being reprimanded.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because she was asked to sign a write-up concerning the altercation she had with a co-worker the previous day.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa Ct. App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *State v. Holtz*, Id. In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *State v. Holtz*, Id. Here, the administrative law judge found the credibility of employer's testimony, coupled with written statements of co-workers, to be far more credible than claimant's testimony. Employer stated that claimant wasn't going to be fired on the date of the meeting, but rather claimant needed to be warned that those actions would not be allowed in the future. If employer had wanted to fire claimant, it could have done it over the phone on October 31, 2017. There was no need to bring in claimant and risk another explosion. Employer's testimony was more credible.

DECISION:

The decision of the representative dated November 17, 2017, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn