

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**AMANDA LEWIS**  
Claimant

**COMES INVESTMENTS INC**  
Employer

**APPEAL 20A-UI-09329-J1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 5/24/20  
Claimant: APPELLANT (2)**

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

On August 3, 2020, the claimant filed an appeal from the July 24, 2020, (reference 01) unemployment insurance decision that denied benefits based on voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on September 16, 2020. Claimant participated. Employer participated through Missy Stoos, Payroll Manager.

**ISSUE:**

Did claimant have good cause attributable to the employment for quitting employment?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on May 25, 2019. Claimant last worked as a part-time shift lead. The employer operates a Pizza Hut restaurant in Emmetsburg Iowa. Claimant filed a claim for unemployment benefits based upon reduced hours she was working on May 24, 2020. Claimant was completely separated from employment on June 19, 2020. Claimant submitted her resignation when the employer hired Ariel Webster to work in the same Pizza Hut that claimant was working in. Claimant obtained a temporary restraining order under Iowa Code 236 against Allen Schwidder. Claimant obtained a permanent restraining order against Mr. Schwidder and Ms. Webster on June 22, 2020.

Claimant informed her manager Cole Wall that she had a restraining order in place concerning Mr. Schwidder and Ms. Webster. Claimant asked her employer not to hire Ms. Webster. Claimant was fearful for her and her family's safety if Ms. Webster was hired. Ms. Webster was hired and started working at the Pizza Hut on June 23, 2020.

**REASONING AND CONCLUSIONS OF LAW:**

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa

2016). “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”. *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

In this case claimant resigned her employment. The question becomes whether claimant had good cause attributable to her employer for her quit. I find claimant did have good cause attributable to the employer for quitting her job.

“Good cause attributable to the employer” does not require fault, negligence, wrongdoing or bad faith by the employer. *Dehmel v. Employment Appeal Bd.*, 433 N.W.2d 700, 702 (Iowa 1988)(“[G]ood cause attributable to the employer can exist even though the employer is free from all negligence or wrongdoing in connection therewith”); *Shontz v. Iowa Employment Sec. Commission*, 248 N.W.2d 88, 91 (Iowa 1976)(benefits payable even though employer “free from fault”); *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787, 788 (Iowa 1956)(“The good cause attributable to the employer need not be based upon a fault or wrong of such employer.”). Good cause may be attributable to “the employment itself” rather than the employer personally and still satisfy the requirements of the Act. *Raffety*, 76 N.W.2d at 788 (Iowa 1956).

Ordinarily “good cause” is derived from the facts of each case keeping in mind the public policy stated in Iowa Code Section 96.2. *O’Brien v. EAB* 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). “The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the test of good faith.” *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). “Common sense and prudence must be exercised in evaluating all of the circumstances that led to an employee’s quit in order to attribute the cause for the termination.” *Id.*

Iowa Admin. Code r. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

Iowa Admin. Code r. 871-24.26(2) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(2) The claimant left due to unsafe working conditions.

The standard of what a reasonable person would have believed under the circumstances is applied in determining whether a claimant left work voluntarily with good cause attributable to the employer. *O’Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993).


I find that claimant had good cause attributable to the employer for quitting employer. The claimant’s belief of danger to herself and family was objectively reasonable. The claimant informed her employer she felt she was in danger from Ms. Webster. Claimant ultimately obtained

a restraining order against Ms. Webster. The employer hired Ms. Webster to work in the same restaurant as claimant. Claimant resigned rather than be exposed to physical danger.

**DECISION:**

**Regular Unemployment Insurance Benefits Under State Law**

The July 24, 2020, (reference 01) unemployment insurance decision is reversed. Benefits are payable, provided claimant is otherwise eligible.



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James F. Elliott  
Administrative Law Judge

September 18, 2020  
Decision Dated and Mailed

je/scn