

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SONDRA K DAGGETT
Claimant

CITY OF MARION
Employer

APPEAL 18A-UI-09269-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/12/18
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 27, 2018 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit because she disliked the work environment. The parties were properly notified of the hearing. A telephonic hearing was held on September 25, 2018. The claimant, Sondra K. Daggett, participated. The employer, City of Marion, participated through Jen Ketelsen, HR Manager; and Elsworth Carman, current Director of Administrative Services and former Director of the Library. Claimant's Exhibits A, B, and C were received and admitted into the record without objection.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time, most recently as a promotions and development coordinator, from July 31, 2017, until August 3, 2018, when she quit. Back in February 2018, claimant was part of a group text message between multiple co-workers. Claimant's co-workers discussed the upcoming bachelorette party of another co-worker and made bawdy comments to each other. Claimant found this conversation distasteful and inappropriate. The following workday, claimant reported the conversation to Carman. Carman and other members of management gathered information and learned that the text conversation was conducted entirely on personal cell phones and only one of the participants was actually at work when the conversation occurred. Carman spoke to the individual who was working about the conversation. Carman offered to claimant to raise the text message and concerns about it at the next management meeting, but claimant said she did not want him to do that. Carman did not take any additional steps after this.

Beginning around March 2018, claimant began feeling increased resistance from co-workers when she tried to do her job. Claimant would have ideas about how to do things, and her co-workers would tell her that the ideas would not work. Carman recalled claimant coming to

him with frustrations about co-workers, but these were never significant enough that he felt intervention was necessary. During the summer of 2018, Carman transitioned from his role as Director of the Library into a new role and Jo Pearson became the Interim Library Director. In late July or early August, Pearson issued claimant a Performance Improvement Plan. Claimant was upset by this and felt the Performance Improvement Plan was a personal attack against her. Claimant decided to quit her employment. She presented a letter to Ketelsen and requested multiple terms in a separation agreement. (Exhibit B) Ketelsen replied that she wanted claimant to remain employed and for the two of them to find a solution to her concerns that would include her staying in her job. Claimant said that would not be possible. Continued work was available, had claimant not quit, and no one told claimant that if she did not quit that she would be discharged.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation was without good cause attributable to the employer. Benefits are withheld.

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 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: ...

(6) The claimant left as a result of an inability to work with other employees.

...

(21) The claimant left because of dissatisfaction with the work environment.

...

(28) The claimant left after being reprimanded.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). In this case, claimant left due to interpersonal and working relationship issues with

co-workers. While these are understandably frustrating, the average employee is not compelled to resign when faced with similar difficulties. The final straw triggering claimant's departure was the Performance Improvement Plan. While claimant may have been upset by the employer pointing out issues with her performance, this was not even a disciplinary action or reprimand and continued work was available to her. Instead of continuing to work, claimant chose to resign. 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). Claimant told Ketelsen she was quitting and then submitted a letter of resignation solidifying that intent. Claimant's decision to end her employment was without good cause attributable to the employer. Benefits are withheld.

DECISION:

The August 27, 2018 (reference 01) unemployment insurance decision is affirmed. Claimant separated from 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.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn