

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

TRISHA M MOYLE
Claimant

APPEAL NO. 18A-UI-06369-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

QUAKER MANUFACTURING LLC
Employer

**OC: 05/20/18
Claimant: Appellant (2)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Trisha Moyle (claimant) appealed a representative's June 6, 2018, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits after her separation from employment with Quaker Manufacturing (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 26, 2018. The claimant participated personally. The employer's representative notified the administrative law judge that the employer would not be attending the scheduled hearing.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on August 18, 1993, as a full-time planning manager. The company hired very few women managers but the plant manager was a woman. Frequently the claimant was the only female in meetings. Vacancies with male managers were filled quickly. Management spoke for years about the male manager who had to wait four weeks to fill a vacancy.

In July 2016, the employer requested the claimant to take an employee who was on a last chance agreement. She was asked to terminate him and then forced to perform his job and her job for almost a year while waiting for the employer to hire a replacement.

In 2017, the claimant had a medical procedure and her doctor required her to take four weeks away from work. Her supervisor questioned her use of vacation. The claimant did not see the employer questioning male managers about their use of time off for hospitalization and medical issues.

The claimant had always received good work reviews. In 2018, the claimant heard management comment that she did not listen before she talked. The claimant made an effort to

pay attention to what was being said before she added her comments. She suspected her superiors did not want to hear the truth about the plant.

The claimant oversaw five planners. At the end of March 2018, one of the claimant's planners was promoted. In addition, she was training a new planner. The senior planner told the claimant a replacement worker would be hired soon. In the meantime, the claimant worked seven days a week covering her job, training a new planner, and performing the functions of the vacant position. Each week she asked the senior planner for more information. None was forthcoming. She talked to the human resources department with the senior planner but no information was available. The claimant told the senior planner she could not do her job effectively.

On May 17, 2018, the senior planner had a meeting with the claimant about cost analysis. At the end, he asked her how she was doing. The claimant said she was working days, nights, and weekends, covering two jobs. The senior manager noted she had taken some vacation lately and four weeks the year before. The claimant reminded him that she had plenty of vacation and that her vacation the year before was for a hysterectomy. The senior manager gave the claimant the impression she was not allowed to take the vacation she had earned.

The senior manager asked the claimant who she would recommend for the open position. The claimant stated a person who had been recommended to her. The senior manager pointed out that he made too much money. He wondered if the claimant would like to do something different. The senior manager promised the claimant's new job would pay the same. He stated he had to be careful about what he said. The claimant knew the senior manager wanted her to be demoted so he could put the recommended person in the claimant's job and said so to him. The senior manager said that the conversation had to stay within the four walls. Tears came to the claimant's eyes and she left.

On May 18, 2018, the claimant sat silent in a conference call as she had for the last five weeks because she was intimidated by the employer. She thought about management's intent to replace her, analyzing of her vacation, and their effort to silence her comments. On Saturday, May 19 and Sunday, May 20, 2018, the claimant worked for the company doing her job and the vacant job. On May 20, 2018, the claimant sent the employer an e-mail of resignation. Continued work was available had the claimant not resigned.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

Iowa Code section 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. 871-24.26(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.

The law presumes a claimant has left employment with good cause when sje quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). It would be reasonable for the employee to inform the employer about the conditions the employee believes are intolerable or detrimental and to have the employee notify the employer that she intends to quit employment unless the conditions are corrected. This would allow the employer a chance to correct those conditions before a quit would occur. However, the Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. *Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant*, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The claimant notified her senior planner weekly for eight weeks that she could not do two people's jobs. In response, the senior planner did not offer to take any of her duties or speed up the hiring process. Instead, he intimidated her with noting her vacation time, comparing her rate of pay to another worker's pay, threatening her with demotion, and trying to frighten her not to talk about the conversation. In response to the claimant's notice of intolerable and detrimental workplace, the senior planner bullied the claimant. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits, provided he meets all the qualifications.

DECISION:

The representative's June 6, 2018, decision (reference 01) is reversed. The claimant voluntarily quit with good cause attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs