

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**RHONDA MURRAY**  
Claimant

**APPEAL 21A-UI-11996-SN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA STATE ASSOC OF COUNTIES**  
Employer

**OC: 03/14/21  
Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quit  
Iowa Admin. Code r. 871-24.26(4) – Intolerable working conditions

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the April 16, 2021, (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on July 16, 2021. The claimant participated and testified. The employer participated through Abby Riesberg. The employer was represented by Hearing Representative John Soete.

The administrative law judge made the following evidentiary determinations during the hearing. The employer sent two tranches of documents to the Appeals Bureau on July 15, 2021. One tranche was 51 pages long. The other tranche was 32 pages long, but appeared to be a duplicate. The employer's exhibits were not admitted because Mr. Soete decided to send exhibits by overnight mail to the claimant's address on July 14, 2021. Mr. Soete offered the explanation that these exhibits were sent at the last minute because he was busy. The claimant did not acknowledge receipt. Mr. Soete argued the hearing should be postponed due to his own decision to send them in a manner that placed their receipt by the claimant at the time of hearing in jeopardy. The back of the hearing notice states exhibits must be accessible to the other party on the date of the hearing. The administrative law judge is not aware of any rule warranting postponement of a hearing due to a party's failure to read and understand the instructions on the back of the hearing notice.

The claimant also registered Tammy Blinde to provide witness testimony in support. This witness was not called because after hearing testimony from both parties, the administrative law judge determined the credibility differences regarding the narrow scope of her testimony would not be decisive.

**ISSUE:**

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause attributable to the employer?

## **FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

The claimant was employed in two roles for the employer, but most recently as a tax deputy, until she was separated from employment on March 16, 2021, when she quit. From December 29, 2020, until the date of her resignation, the claimant reported directly to Treasurer Abby Riesberg.

On December 29, 2020, Ms. Riesberg won the election for the treasurer position. Ms. Riesberg's opponent in this election was Tammy Blinde, a driver's license deputy. On that day, Ms. Riesberg overheard County Assessor Tim Peters telling Ms. Blinde and the claimant to refuse to do work, as instructed by Ms. Riesberg. Given this context, Ms. Riesberg shared with employees that they should be aware of the employer's rules and that they should not be insubordinate. Ms. Riesberg stated she would wait to fill out employee assignment papers. Ms. Riesberg explained that she wanted to wait because a new treasurer could be elected in March 2021 and she wanted that treasurer to make that decision. The claimant and Ms. Blinde assumed, despite what Ms. Riesberg had stated as the reason, the reason they had not been assigned to their respective positions was a pretext to terminate or demote them.

In early-March 2021, Ms. Riesberg approached the claimant's desk and asked her to make a user password for a bank, so she could pull up a bank statement on the account. The claimant asked Ms. Riesberg why she could not do that herself. Ms. Riesberg explained that the claimant and the previous treasurer were the only people she knew that had an account. Although Ms. Riesberg did not raise her voice, she pointed with her finger on the desk on a sticky note with the contact person's name and emphasized this work needed to be done as soon as possible. The claimant wanted to finish her current assignment because she was afraid she would lose track of where she was in the assignment. This interaction caused the claimant to recount that she had seen in her Internet search history that someone had searched for an out of state bank. The claimant assumed Ms. Riesberg had done the search and had been performing the search, in order to set her up for discipline.

Around that same time, Ms. Riesberg asked the claimant how much money was in the cash drawer. The claimant explained that there were two rolls of quarters in the cash drawer. Ms. Riesberg's question seemed inane to the claimant given she had been in her current role for such a long period of time. The conversation was blunt and the tone may have been slightly unpleasant, but Ms. Riesberg did not yell at the claimant, nor did not use any profanity.

Between January 1, 2021 and February 1, 2021, the claimant went up to go to the restroom and when she returned to her desk the office was empty on three separate shifts. The claimant was concerned that anyone could have just walked up and grabbed money out of the drawer. The claimant believes this shows Ms. Riesberg is not competent in her role.

On January 26, 2021, Ms. Riesberg and Ms. Blinde had a disagreement about whether Ms. Blinde would have to take a test. Both women raised their voices. Ms. Riesberg instructed Ms. Blinde to sit several times in a raised voice. Ms. Riesberg's voice was so loud, the claimant could hear it from around the corner. Ms. Blinde reminded Ms. Riesberg that she had been in her role longer than Ms. Riesberg had as a means of dismissing her instructions. Ms. Blinde stated she believed Ms. Riesberg was harassing her and treating her like a kindergartener.

On March 9, 2021, Ms. Riesberg made the determination that she would change the claimant's position to property tax / financial clerk. In this new role, the claimant would have diminished

duties and would report to the new tax deputy. Her pay would be reduced to \$15.46 from \$22.72. The claimant testified this change in her position did not cause her to resign from her position with the employer. In fact, the claimant testified she was not aware of what her new assignment would be. Ms. Riesberg also made the determination to change Ms. Blinde's position to tax clerk.

On March 16, 2021, the claimant refused to sign her reassignment papers. The claimant left a note for Ms. Riesberg, as well as, supervisors Tom Brouillette, Bo Fox and Vince Phillips. The claimant wrote as her reason that she could no longer work for Ms. Riesberg because of the incidents listed above in the timeline of events.

### **REASONING AND CONCLUSIONS OF LAW:**

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

Iowa Code section 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:

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

(22) The claimant left because of a personality conflict with the supervisor.

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 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.

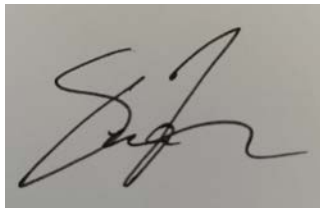
Ct. App. 1973). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

The claimant unambiguously quit when she refused to sign her reassignment papers and left notes for Ms. Riesberg and each supervisor. The claimant contends that Ms. Riesberg made her working conditions objectively intolerable. The administrative law judge disagrees. A reasonable person would not end their employment due to the incidents recounted in the findings of fact. Indeed, the claimant jumped to conclusions without any basis to do regarding her search history and the delay of assignments. As for the other incidents, the claimant and Ms. Blinde appear to have felt Ms. Riesberg was not competent in her role. In that context, Ms. Riesberg yelled on one occasion in response to an employee attempting to undermine her authority. Ms. Riesberg was also not yelling at the claimant. Such a record does not support a finding that the workplace was objectively intolerable. While claimant's leaving may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

The employer has provided testimony showing the claimant was going to be placed in a substantially diminished role with diminished pay. The administrative law judge is not evaluating her resignation as a change in the contract of hire because the claimant denies it as a reason for her resignation.

**DECISION:**

The April 16, 2021, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left her 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



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July 30, 2021  
Decision Dated and Mailed

smn/scn