

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**LINDSAY E OLSON**  
Claimant

**FIRST STATE BANK**  
Employer

**APPEAL 15A-UI-07360-JP-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/07/15**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the June 18, 2015, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 29, 2015. Claimant participated. Employer participated through attorney, Laura Folkerts and bank president, Greg Johnson.

**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 part time as a teller from March 7, 2015, and was separated from employment on June 3, 2015, when she quit.

On March 12, 2015, claimant and some co-workers taped a note on the radio that a certain employee lost his privileges to change the radio station because the employee came to work late. After the employee found the note, the employee asked claimant if she put the note on the radio. Claimant informed the employee that she did. The employee told claimant it was none of her business, then shoved the note down claimant's shirt, and told her it was a joke that she worked there. Claimant told the employee that the employee's actions were inappropriate and claimant walked away. The employee followed claimant and again told claimant it was a joke that she worked there. Claimant reported the incident to a vice president of the company. The vice president told claimant to contact the president of the company, Mr. Johnson right away. Mr. Johnson was out of the office, but claimant did speak to him on the phone. Claimant told Mr. Johnson what had happened. Mr. Johnson told claimant he would address the incident in the morning.

On March 13, 2015, Mr. Johnson met with the employee in the morning to discuss the incident. In the afternoon, Mr. Johnson then met with the employee and claimant at the same time. During this meeting, the employee apologized to claimant for what happened on March 12, 2015. The employee then continued that there were other issues with claimant. Claimant said

those issues involved the employee's demeaning behavior. Claimant said she had a list of the behaviors in question. Mr. Johnson asked claimant to go get the list and claimant left the meeting, but then claimant left the building and did not return until the next business day (March 16, 2015).

On March 16, 2015, Mr. Johnson met with claimant about the March 12, 2015 incident. Claimant was upset and did not like the way the other meeting happened. Claimant then left the building for the rest of the day. On March 17, 2015, Mr. Johnson met with claimant again about the March 12, 2015 incident. Claimant did not think Mr. Johnson was handling the situation properly. Mr. Johnson informed claimant that if any discipline was issued to the employee, claimant may not be aware of what the discipline would be. On March 20, 2015, Mr. Johnson met with claimant to discuss the incident on March 12, 2015. On March 24, 2015, Mr. Johnson again met with claimant to discuss the incident on March 12, 2015. During this meeting, Mr. Johnson and claimant watched the video of the incident. The March 24, 2015, meeting was the last meeting between Mr. Johnson and claimant where they discussed the March 12, 2015 incident. Mr. Johnson testified that the employee was disciplined for the March 12, 2015 incident, but he did not tell claimant what the discipline was.

Claimant testified that after March 12, 2015, an employee from human resources would not talk to her unless the human resources' employee had to. Claimant testified that she did not report this to her supervisor or Mr. Johnson. Claimant also testified that after then March 12, 2015 incident, she suffered anxiety issues at work. Claimant testified she reported this to her direct supervisor, but did not report it to Mr. Johnson.

On June 3, 2015, Claimant met with Mr. Johnson. Claimant told Mr. Johnson that she had been offered another job. However, claimant had only interviewed for a new job, claimant never accepted new employment. Claimant said she wanted to keep working for the employer, but would only stay if the employer made her full time. Mr. Johnson told claimant that there were no full-time positions available. Claimant then informed Mr. Johnson she quit immediately. When claimant spoke with Mr. Johnson on June 3, 2015, claimant did not list the March 12, 2015 incident as a reason she was quitting.

The employer does have a policy regarding workplace harassment, wherein an employee is to report it to their supervisor and the complaint is referred to a higher supervisor if needed. Mr. Johnson testified the policy was followed for the March 12, 2015 incident.

## **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. Benefits are denied.

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(3), (21) and (37) provide:

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 § 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 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:

(3) The claimant left to seek other employment but did not secure employment.

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

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

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).

It is the duty of an administrative law judge and 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, as the finder of fact, may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa 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*, 548 N.W.2d 162, 163 (Iowa App. 1996). 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 evidence you believe; 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*, 548 N.W.2d 162, 163 (Iowa App. 1996).

This administrative law judge assessed the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and used my own common sense and experience. This administrative law judge finds the employer's version of events to be more credible than claimant's recollection of those events.

Claimant's decision to quit on June 3, 2015 was not for a good-cause reason attributable to the employer. Claimant followed the employer's procedure for reporting the March 12, 2015 incident by speaking with Mr. Johnson. Mr. Johnson met with claimant the first day he was back in the office, March 13, 2015. Mr. Johnson then met with claimant about this incident on four more days. Mr. Johnson did discipline the employee involved in the March 12, 2015 incident. Mr. Johnson did inform claimant that any discipline would likely not be made public. Claimant's testimony that she suffered anxiety attacks after March 12, 2015 and this was part of the reason

she quit is not persuasive. Claimant never reported her anxiety attacks to Mr. Johnson, the person she had been communicating with regarding the March 12, 2015 incident. Claimant also continued to work for the employer from March 24, 2015 until the day she quit, June 3, 2015, without reporting her anxiety attacks to Mr. Johnson. Furthermore, on June 3, 2015, when claimant told Mr. Johnson she was quitting, claimant never mentioned to Mr. Johnson that she was having any anxiety problems. In fact, claimant told Mr. Johnson she would keep working for the employer if they made her full time. By becoming full time, claimant would have presumably been around the employee in question even more. Claimant has failed to meet her burden that her voluntary leaving was for good cause attributable to the employer.

While claimant's leaving the employment 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 must be denied.

**DECISION:**

The June 18, 2015, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the 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.

---

Jeremy Peterson  
Administrative Law Judge

---

Decision Dated and Mailed

jp/css