

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KATIE A OBRECHT
Claimant

**DES MOINES INDEPENDENT
COMMUNITY SCHOOL DISTRICT**
Employer

APPEAL 18A-UI-02152-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/14/18
Claimant: APPELLANT (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 8, 2018, reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on March 13, 2018. Claimant participated. Employer participated through Rhonda Wagnor, Benefits, and Jill Bryson, Principal. Claimant's Exhibit A was admitted into the record. Employer's Exhibit 1 was admitted into the record.

ISSUE:

Did the claimant voluntarily quit her employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as an art teacher at an elementary school beginning in August 2017 through December 22, 2017, when she voluntarily quit. The claimant taught art to children from kindergarten through fifth grade.

The claimant quit because she believed she was being subjected to an unsafe environment and because she thought her principal was creating a hostile work environment. The claimant had thirteen years of teaching experience in Colorado, but the teaching contract she began in August was her first experience teaching in Iowa. The claimant alleges an unsafe work environment as part of her reason for quitting, but can only really point to one specific incident that she described as serious. On October 31, two fifth graders began a fist-fight during art class. The claimant was hit in the ankle by a chair leg. She sought treatment from the school nurse, but finished her work day. As she was leaving for the day, the claimant voluntarily chose to stop and take part in a Zumba class that was being held by one of the extra-curricular clubs after school. Despite her 'severe' ankle injury the claimant was able to dance with the students for several minutes without any apparent of visible injury. The claimant was off work for the following three school days. The two students involved in the fist fight were suspended for two days.

The claimant was unhappy that the principal did not hold a “debriefing session” with her or call her to follow up and make sure that she was ok.

She sought treatment from the districts’ worker compensation doctor and then from her own family medical provider. No medical provider ever told or recommended to the claimant that she quit her job. She has no permanent or residual physical or mental impairment due to the fist-fight incident.

The claimant returned to work on November 6 and continued to work her regular work schedule. The claimant complained about not feeling safe in her classroom. She made repeated reports of behavioral issues with her students in her classroom. She was given coaching by her principal and others, but often refused to accept suggestions given to her for how she could better manage her classroom. The principal hired a substitute teacher so the claimant could watch other art teacher’s work at other schools. Claimant requested a full-time classroom associate but her request was denied as the district budget does not allow for a full-time associate in the art classroom. The music teacher and the physical education teacher see the same population of students for the same weekly time period as the claimant. Neither of those teachers had the behavioral problems with students that the claimant experienced. There were not every day incidents of violence in the claimant’s classroom. On occasion the claimant had to discourage or stop students from throwing pencils at each other and had to stop students from threatening to cut others with scissors. On one occasion she had to stop a student from misusing the paper cutter. The claimant filed far more behavior reports than any other teacher in the building and had more trouble controlling her classroom than any other teacher.

As she was a new to the district teacher, the claimant was observed teaching her class by the principal. This was normal protocol for all teachers. Ms. Bryson met with the claimant to provide feedback to her on what she observed. The claimant was not happy with the deficiencies Ms. Bryson spoke to her about. The claimant had only had stellar evaluation previously and believes she should have been receiving the same from Ms. Bryson. Ms. Bryson suggested that at their next meeting the claimant have someone from the DMEA present to help her understand the feedback process. Ms. Bryson treated the claimant no differently than any other teacher.

As a result of the claimant’s difficulties with classroom management and due to some issues with her using the same lesson plan for all grades, the claimant was given specific tasks she had to perform including lesson planning and posting weekly learning target goals. The claimant was not meeting the employer’s standards for teaching which is why she was placed on probation. The observational meeting and the subsequent discussions about Ms. Bryson’s observations of the claimant’s classroom performance took place before the October 31 fist-fighting incident.

On November 17, Ms. Bryson and Emily Behrens, the human resources manager met with the claimant to talk about the claimant’s failure to meet the Iowa Teaching Standards. During the meeting the claimant indicated she wanted to end her employment. At no time did the employer tell or indicate to the claimant that they wanted her to quit her job. The claimant was presented with the performance improvement plan and told it would begin on November 27. The claimant was given some time to review the specifics of the performance improvement plan.

On November 29 the claimant submitted her resignation that indicated she would be leaving her position December 22, 2017. Continued work was available for the claimant if she had not quit.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without 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. 871-24.25(21) 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.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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).

"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. Industrial Relations Commission*, 277 So.2d 827 (Fla. App. 1973). Each case must turn around its own facts. *Wolfe v. IUCC*, 232 Iowa 1254 7 N.W.2d 799 (Iowa 1943).

The claimant has not met her burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The administrative law judge is simply not persuaded that all of the incidents, including the fist fight between the two fifth graders on October 31 created such an unsafe environment that the claimant was forced to voluntarily quit. There were at least two other teachers in the building who dealt with the exact same population of children under the same time constraints that were able to manage the classroom behavior. The more persuasive explanation is offered by the employer. The claimant was not able to manage the disruptive children in her classroom and was resistant to coaching and help offered to her.

There is similarly no credible evidence that Ms. Bryson created a hostile work environment for the claimant or subjected her standards any different than any other teacher. For example it was reasonable for Ms. Bryson to require the claimant to submit lesson plans, after the claimant used the same lesson plan for every single grade of children. The claimant was placed on a performance plan due to her failure to meet specific teaching standards. The claimant only

decided to quit when she learned that she would be placed on the teaching plan beginning on November 27. Claimant continued to teach until the winter break began on December 22 or approximately one more month. The work environment was just simply not what the claimant was used to. It was not unsafe nor hostile or intolerable. While claimant's decision to quit may have been based upon good personal reasons it was not a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied.

DECISION:

The February 8, 2018, (reference 01) 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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs