IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

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Appeal Number: 04A-UI-03099-BT
OC: 01/11/04 R: 04
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the ***Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319***.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

_____
(Administrative Law Judge)

_____
(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Julie Klein (claimant) appealed an unemployment insurance decision dated March 10, 2004, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Decorah Community School District (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 12, 2004. The claimant participated in the hearing with Attorney Danielle Foster-Smith. The employer participated through Superintendent Steven Chambliss, Middle School Principal Oliver Lybeck and Attorney Steven Weidner. Employer's Exhibit A was admitted into evidence.

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 employed as a full-time teacher from August 23, 1989 through August 18, 2003. She was hired as a high school Language Arts instructor and had additional contracts for her involvement in extracurricular activities. Beginning in 2001, there were problems between the claimant and her employer, which caused the claimant to begin having panic attacks, for which she was successfully treated. She was reported to have performance deficiencies in her evaluation but no specific information was provided. Although it is unclear why the problems started, the end result was that the claimant hired legal counsel to protect her interests, was placed on paid suspension for ten months, and had to undergo a physical and psychiatric examination to prove she was fit to teach. In May 2002, she was allowed to return to work but was sent to the middle school instead of the high school. Her contract for extracurricular activities was not renewed which meant less pay and she was now required to work with other teachers as if she were a student teacher.

Since the time of the claimant's suspension, she was not permitted to go to the high school unless she had prior authorization from the school superintendent. This was true whether the claimant had to attend mandatory meetings at the high school or if she simply wanted to attend a school play or basketball game and she was unable to participate in some community events due to this prohibition. The reasons cited by the employer for taking this step were to guarantee there would not be any further difficulties between the claimant and her coworkers. The employer also reported that the claimant had ordered equipment without authorization, but did not provide detailed information on that issue. In August 2003, the claimant had to go through a performance evaluation and was reluctant to schedule her formal interview due to the experience of the past few years. The employer reported there were no problems with the claimant's performance and anticipated a positive interview. Prior to the interview, the claimant received a letter from the superintendent dated, August 15, 2003 stating the claimant would continue to be prohibited from going to the high school, but that she could now obtain authorization from the middle school principal, in addition to the superintendent. The claimant quit on the following Monday, August 18, 2003.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer or if the employer discharged her for work-connected misconduct. Iowa Code Sections 96.5-1 and 96.5-2-a.

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 demonstrated her intent to quit and acted to carry it out when she tendered her written resignation on August 18, 2003. She bears the burden of proving that the voluntary quit was for a good reason that would not disqualify her. Iowa Code Section 96.6-2.

The claimant voluntarily quit her employment because of health concerns, as well as detrimental and intolerable working conditions. She had previously developed panic attacks as a result of the stress of her employment. She and her employer had some longstanding problems but most had been resolved. Although the employer suggests the claimant was doing

well, it continued her restriction from going to the high school. The law presumes a claimant has left employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). In order to show good cause for leaving employment based on intolerable or detrimental working conditions, an employee is required to take the reasonable step of informing the employer about the conditions the employee believes are intolerable or detrimental and that she intends to quit unless the conditions are corrected. The employer must be allowed the chance to correct those conditions before the employee takes the drastic step of quitting employment. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). The Administrative Law Judge does not understand and the employer did not sufficiently explain why a teacher would be restricted from going to the local high school. It would be understandable if there had been a documented physical or verbal assault, but that did not occur. By sending that letter to the claimant, it served as a reminder that she would continue to have problems and that even good work would not merit an improvement in circumstances. The employer effectively imposed a "no-contact" order on the claimant without articulating sufficient reasons for doing so. In the case herein, notice to the employer that she intended to quit would have been futile based on the two years of problems between the parties. The claimant has established that she voluntarily quit her employment with good cause attributable to the employer. Benefits are allowed.

DECISION:

The unemployment insurance decision dated March 10, 2004, reference 01, is reversed. The claimant voluntarily quit her employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits provided she is otherwise eligible.

sdb/b