

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TAMMY J RICE
Claimant

MCNEAL ENTERPRISES LLC SERIES 1
Employer

APPEAL 19A-UI-05222-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/02/19
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 24, 2019, (reference 01) decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 24, 2019. Claimant participated and was represented by Christopher C. Stewart, attorney at law. Employer participated through (representative) Kristin Hale, Director; Elisabeth Cardoso, Assistant Director; and Becky McNeal, Owner. Claimant's Exhibit A 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 a day care provider beginning on October 25, 2015 through June 5, 2019, when she voluntarily quit.

The claimant has developmental disabilities that affect her ability to communicate and process information. She has worked successfully in the day care industry for the last twenty years. In her four years of employment with this employer she was never accused of mistreating a child. She had been written up, along with other coworkers in November 2018 for spending too much time checking some children for head lice while others were crying.

The claimant had never physically threatened or harmed any of her coworkers or the children in her care. In late May the claimant parked in a way that she was in two different parking spaces. She was asked to move her car. She did so.

Shortly after the car parking incident, Ms. Hale received an anonymous unsigned letter alleging in part that the claimant had told one of the children in her care that she did not want to play with him, that she had roughly pulled one child by the arm and that she had thrown a book at another child. When Ms. Hale received the letter she spoke to the lead teacher in the room where

claimant worked. The lead teacher only reported that the claimant seemed to have a “bad attitude” and that she seemed like she did not want to work at the facility any longer. At no time did anyone ever confirm to Ms. Hale that claimant had committed any of the acts alleged in the anonymous letter. Ms. Hale never asked the lead teacher if she had seen the claimant commit any of the acts detailed in the anonymous letter.

Ms. Hale called the claimant into a meeting on June 4. During the meeting Ms. Hale accused the claimant of the acts mentioned in the letter. The claimant denied ever mistreating any child or committing any of the acts mentioned in the letter. The claimant is not a good communicator. She believed Ms. Hale was very angry with her because she was accusing her of things she did not do. Ms. Hale then tried to get the claimant to talk to her by asking her how she felt. Ms. Hale asked the claimant if she wanted to hit her. The claimant was upset to the point where she completely shut down. When the claimant shut down verbally Ms. Hale told her that she did not think the claimant wanted to work for the employer any longer. At that time she gave claimant the blank voluntary resignation form and told claimant she was going to have to change her attitude or resign her job.

Claimant went back to her classroom and completed her work shift. Claimant went home and told her parents as best she could what had happened. Her father came to the business the very next morning to speak to Ms. Hale and to Ms. Cardoso. Mr. Rice asked if the employer knew that his daughter was a person with special needs. Ms. Hale indicated that the employer did realize claimant was a person with special needs. Ms. Hale told Mr. Rice that there had been complaints about the claimant. Mr. Rice said the claimant was upset and would probably not be returning to work.

The claimant believed that Ms. Hale was angry at her for things she did not do and misunderstood the comment made by Ms. Hale about physical violence. That the claimant was upset and did not understand what was happening was clear from the way Ms. Hale described her as shutting down. Additionally, claimant's father had to go to the business to learn what had happened as the claimant was simply not able to communicate clearly what had taken place during the meeting. Claimant felt that Ms. Hale was verbally abusing her by making the accusations and by talking of physical violence. The claimant was too upset by that incident to return to work. The next day the claimant dropped off her work shirts and picked up her personal property. The claimant voluntarily quit because of the way Ms. Hale treated her during the meeting.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment 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 claimant's communication and understanding abilities are limited and that was known by Ms. Hale when she called the claimant in to talk to her about the allegations. Even a person without any special needs would understandably be upset when told that an anonymous person had made accusations that they had harmed or mistreated a child. The claimant denied the accusations to Ms. Hale. Ms. Hale had no confirmation from anyone that claimant had actually done anything she was alleged to have done in the anonymous letter. The claimant's reaction was to shut down. Ms. Hale then asked the claimant if she was going to hit her. Even Ms. Hale admitted that it was a flippant remark she should not have made, but to make it to a person with special needs who has trouble processing and communicating makes the comment egregious. Ms. Hale then tried to convince the claimant to resign by handing her a voluntary resignation paper, when the claimant had never made any comment that she wanted to leave her job. The unfounded accusations, coupled with the comment about claimant wanting to hit a supervisor, and being given a voluntary resignation form all combined to create an intolerable work environment for the claimant. The claimant had been disciplined before and was able to return to work without further issues demonstrating that the situation was more than an employee being interviewed or disciplined. The employer created an intolerable work environment that gave claimant good cause attributable to the employer for voluntarily quitting the job.

DECISION:

The June 24, 2019, (reference 01), decision is reversed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs