

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SARA R YOUNG
Claimant

HY-VEE INC
Employer

APPEAL 15A-UI-13263-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/08/15
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 25, 2015 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on December 18, 2015. Claimant participated. Employer participated through Keely McDonald, Human Resources Manager; Tina Beltz, Bakery Manager; Dave Blum, Store Director; and was represented by James Tranfaglia of Corporate Cost Control. Employer's Exhibit One was entered and received 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 cake designer beginning on November 12, 2012 through October 16, 2015 when she voluntarily quit.

The claimant was an excellent senior cake designer. Continuing work was available for her if she had not quit. The claimant was not treated any differently than any other employee by her supervisor Ms. Beltz. The claimant simply did not like the fact that the employer would not accommodate her chosen work schedule and that she could not make decisions without at least consulting her manager. The claimant was never harassed or mistreated by Ms. Beltz.

The claimant and Ms. Beltz had a personality conflict. Ms. Beltz as the supervisor wanted the claimant to communicate with her on issues that arose in the workplace. For instance, the employer no longer made no-bake cookies; instead they would order them frozen ready made from the supplier. This was to save time in the bakery. A customer came to the bakery and through Ms. Beltz ordered no-bake cookies. Ms. Beltz ordered the frozen cookies from the regular supplier. Later that same customer came and spoke to the claimant and asked that the cookies be made on-site instead of ordered from the supplier. Instead of talking to Ms. Beltz, the claimant took it upon herself to agree to the customer's request. The frozen cookies arrived

and the claimant then took the extra time, which she was paid for, to make the no-bake cookies without even telling Ms. Beltz that the frozen ones would not be needed. The claimant simply did not want to have to even communicate with Ms. Beltz, let alone get permission from her to change the order. Instead of asking Ms. Beltz or consulting with her on issues or question, the claimant simply did what she thought was best. When confronted by Ms. Beltz about why she had not spoken to her prior to changing the order, the claimant simply grew angry and walked away.

The claimant complained to Ms. McDonald in human resources on numerous occasions about Ms. Beltz. Each time the claimant complained about anything Ms. McDonald addressed her complaint. She met with both the claimant and Ms. Beltz on numerous occasions to resolve issues or concerns. During one meeting to address the claimant's work schedule, the claimant called Ms. Beltz a "bitch." She was instructed by Ms. McDonald that she did not have to like Ms. Beltz but that she was not allowed to call her derogatory names. The claimant called or referred to Ms. Beltz as a "bitch" on more than one occasion. Ms. Beltz never called or referred to the claimant by such derogatory language. Nor did Ms. Beltz ever tell the claimant's husband that she thought the claimant was a "lazy employee." The claimant simply did not like Ms. Beltz and the management decisions made by Ms. Beltz for the bakery department.

The claimant had been talking about leaving Hy-Vee to join her husband's new pawn shop business for a least a year prior to actually quitting. In the fall of 2014, she told Mr. Blum that she would be leaving in the fall of 2015 when her husband was going to purchase his new business.

The claimant put in her notice of intention to quit in mid-September 2015. At that time, Ms. McDonald gave her a blank copy of Employer's Exhibit One to fill out and turn back in so the employer would have on record why she was leaving her employment. The claimant had three weeks to fill out the form and return it to the employer but never did so. She had adequate time to provide any and all reasons she was leaving employment. She chose only to provide that she was leaving as she felt she had reached her potential. Her allegation that she would have suffered repercussions is simply not believable as she was treated fairly by all management in the store.

Mr. Blum, as the store director, had final say over any situation in the store. The claimant never went to him with any allegation that she was being mistreated or harassed by Ms. Beltz or that Ms. McDonald was not addressing her concerns. Mr. Blum saw and visited with the claimant at least once a week, providing her with an opportunity to raise any concerns with him if she chose to do so. She chose not to do so.

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 § 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(22) 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:

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

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).

It is the duty of the administrative law judge as 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 may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa Ct. 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*, Id. 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 believable evidence; 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*, Id.

The claimant was not a credible witness on her own behalf. She could not provide specifics of any of her allegations of harassment that were believable. It was the claimant who called Ms. Beltz a "bitch." It was the claimant who simply refused to take instruction from the supervisor, Ms. Beltz. The claimant was not allowed to have the work environment run to suit her needs or desires. The administrative law judge is persuaded that the claimant had ample opportunity to raise issues with the employer. She demonstrated an ability to complain to the employer often. Each time she complained her issue was addressed by Ms. McDonald. The claimant was upset that the issues were not resolved in her favor, not that issues were not addressed. The employer was not obligated to resolve all of claimant's issues in her favor. Under the circumstances presented, the claimant has not established an intolerable or detrimental work environment. The claimant simply had a personality conflict with her supervisor and chose to voluntarily quit. 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 November 25, 2015 (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

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