

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

LORA M BUNN
Claimant

APPEAL NO. 15A-UI-02122-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CITY OF MARSHALLTOWN
Employer

OC: 01/18/15
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Lora “Sami” Bunn filed a timely appeal from the February 4, 2015, reference 01, decision that disqualified her for benefits and that relieved the employer of liability for benefits, based on an Agency conclusion that she had voluntarily quit on January 21, 2015 without good cause attributable to the employer. After due notice was issued, a hearing was held on March 18, 2015. Ms. Bunn participated. Jill Petermeier, Human Resources Director, represented the employer and presented additional testimony through Police Captain Michael Hanken and Police Chief Michael Tupper. Exhibits One, A, B, and C were received into evidence.

ISSUE:

Whether the claimant separated from the employment for a reason that disqualifies her for benefits or that relieves the employer of liability for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Lora “Sami” Bunn was employed by the Marshalltown Police Department as a full-time Municipal Code Enforcement Officer from 1999 until January 21, 2015 when she voluntarily quit. Ms. Bunn’s immediate supervisor since 2013 was Police Captain Michael Hanken. Ms. Bunn’s separation from the employment followed Ms. Bunn’s 19-year-old son’s arrest and incarceration on Friday, January 16, 2015. Ms. Bunn’s son was charged with Sex Abuse in the Third Degree, a class C felony, and Indecent Contact With a Child, an aggravated misdemeanor. Ms. Bunn’s son is intellectually disabled. Ms. Bunn became aware of her son’s arrest on January 16 when her son telephoned her from an interview room at the police department. At the time, Ms. Bunn was working in her office nearby. Ms. Bunn was upset that the employer had not given her advance warning that her son was to be arrested. Ms. Bunn thought she was entitled to such warning as a professional courtesy. Ms. Bunn was given an opportunity to meet privately with her son while he was still at the police station. Ms. Bunn’s son was then transported to the Marshall County Jail.

Ms. Bunn left her shift early on January 16 with Captain Hanken's permission. Ms. Bunn was very upset about her son's arrest and her perceived lack of professional courtesy. After Ms. Bunn's son had departed from the police station, Captain Hanken invited Ms. Bunn into his office to give her an opportunity to compose herself before she left work early. Ms. Bunn spoke of the situation with her son and raised additional concerns about the embarrassment at work caused by her brother's criminal activity. Captain Hanken counseled Ms. Bunn to let matters resolve themselves and to persevere.

After Ms. Bunn left work early on January 16, she became even more upset when she learned that the police department had issued a press release regarding her son's arrest and the pending criminal charges. Such press releases were standard operating procedure and Ms. Bunn had routinely been provided with press releases concerning other criminal defendants. Ms. Bunn contacted Captain Hanken to express anger about the press release and the fact that Captain Hanken did not mention the impending press release when Ms. Bunn had been in his office that afternoon. Ms. Bunn cited her long tenure with the department and told Captain Hanken that the police department's handling of the matter was "fucking bullshit." Captain Hanken told Ms. Bunn that he was sorry she was upset and that he assumed she knew that there would be a press release. Captain Hanken did not wish to further escalate the matter and concluded the conversation.

Ms. Bunn was next scheduled to work on Monday, January 19. On Sunday, January 18, Ms. Bunn sent Captain Hanken a text message indicating that she would not be into work the next day. Captain Hanken sent a text message response asking whether Ms. Bunn wanted to use vacation or some other leave.

On January 19, Ms. Bunn had left a message for Jill Petermeier, Human Resources Director, stating that she felt betrayed by the police department and wanted to know about leave. Ms. Petermeier returned Ms. Bunn's call. Ms. Bunn told Ms. Petermeier that she felt betrayed because of the events on January 16 and did not feel that she could return to the employment. Ms. Petermeier told Ms. Bunn that she had the option of applying for FMLA leave or for a personal leave but that FMLA leave would require seeing a doctor. Ms. Petermeier emailed FMLA applications to Ms. Bunn that same day. Ms. Bunn subsequently reported that she had not received the documentation. Ms. Bunn then collected the materials from Ms. Petermeier's office. The materials included a copy of Ms. Bunn's job description so that she could share it with her doctor and employee assistance program materials. Ms. Bunn spoke to a doctor about her situation but the doctor declined to support Ms. Bunn's application for FMLA leave.

When Ms. Bunn did not report for work on Tuesday, January 20, Captain Hanken sent her a text message asking whether she would be in. Ms. Bunn responded that she would not be in because she felt betrayed by her son's arrest. Captain Hanken sent Ms. Bunn a text message asking what type of leave she wanted to take. Ms. Bunn did not respond. Captain Hanken later sent a message to Ms. Bunn asking whether they could meet that day. Ms. Bunn responded that Tuesday would not work.

On January 21, Ms. Bunn met with Jill Petermeier, Human Resources Director, Captain Hanken, and Police Chief Michael Tupper. Ms. Bunn brought a friend with her. The employer's interest in meeting with Ms. Bunn was merely to get an idea of whether and when she would be returning to the employment. At the meeting, Ms. Bunn provided the employer with a written statement setting forth the several ways she felt betrayed the perceived lack of professional courtesy the department had shown her in connection with her son's arrest. Ms. Bunn's comments echoed that sentiment. Chief Tupper told Ms. Bunn that he just needed to know when she was coming back to work. Ms. Bunn did not answer. Chief Tupper asked

whether Ms. Bunn was resigning. No one present on behalf of the police department told Ms. Bunn that her only choice was between immediately returning to the employment or resigning. Rather, Ms. Bunn's friend told Ms. Bunn that she needed to make a decision and decide whether to write her resignation letter. Ms. Bunn followed her friend's counsel, wrote a resignation letter there and then, and delivered it to the employer.

REASONING AND CONCLUSIONS OF LAW:

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

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(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.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005).

The evidence the record does not support Ms. Bunn's assertion that the employer forced her to resign. Rather, the employer merely made reasonable inquiry about whether and when Ms. Bunn would be returning to the employer. Ms. Bunn was understandably upset about her son's arrest. The police department handled that matter appropriately and did not slight Ms. Bunn in any manner in connection with the arrest. The police department did indeed extend professional courtesy to Ms. Bunn. Ms. Bunn was provided with immediate access and privacy so that she could speak to her son. Ms. Bunn was allowed to leave work early due to her upset state. Ms. Bunn was allowed the use of Captain Hanken's office so that she could compose

herself before she left work early on January 16. The employer appropriately responded to Ms. Bunn's inquiry about leave. Ms. Bunn, on the other hand, quickly adopted and held fast to the erroneous belief that she had been egregiously betrayed by the department in connection with her son's arrest. Her unwarranted anger toward the employer and her underlying upset over the arrest of her son, colored all of her dealings with the employer from January 16 onward. Ms. Bunn had made a tentative decision not to return to the employment prior to the meeting on January 21 and voluntarily quit upon the advice of her friend. Ms. Bunn's voluntary quit was for personal reasons and was without good cause attributable to the employer. Accordingly, Ms. Bunn is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits.

DECISION:

The February 4, 2015, reference 01, decision is affirmed. The claimant voluntarily quit the employment on January 21, 2015 without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in a been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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