

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRIA HANIG
Claimant

APPEAL NO. 12A-UI-12965-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CITY OF MASON CITY
Employer

OC: 09/30/12
Claimant: Respondent (2-R)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

City of Mason City filed a timely appeal from an unemployment insurance decision dated October 19, 2012, reference 01, that allowed benefits to Bria Hanig. After due notice was issued, a telephone was held November 29, 2012 with Ms. Hanig participating. Human Resources Director Perry Buffington and Library Director Mary Markwalter participated for the employer. The administrative law judge takes official notice of agency benefit payment records.

ISSUE:

Did the claimant leave work with good cause attributable to the employer?

FINDINGS OF FACT:

Bria Hanig was employed by the City of Mason City from May 25, 2000 until she resigned October 3, 2012. She last worked as library secretary. On October 2, 2012, Library Director Mary Markwalter presented a memorandum to Ms. Hanig. The memorandum outlined areas of deficiency in Ms. Hanig's work performance. The memorandum also said that while Ms. Hanig could continue to use flex time, flex time hours must be arranged in advance. Ms. Hanig and Ms. Markwalter did not enjoy a comfortable working relationship. Ms. Hanig believed that Ms. Markwalter's memorandum was an attempt to get Ms. Hanig to resign. Ms. Hanig resigned without discussing the memorandum with either Ms. Markwalter or with Human Resources Director Perry Buffington. Ms. Hanig has received unemployment insurance benefits since filing a claim effective September 30, 2012.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant left work with good cause attributable to the employer. It does not.

Iowa Code section 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.

The claimant has the burden of proof. See Iowa Code section 96.6-2. The fact-finding decision allowed benefits to Ms. Hanig upon a finding that she resigned because of a substantial change in the conditions of employment. The evidence in this record leads the administrative law judge to a different conclusion. Flex time was not eliminated. At most, the memorandum of October 2, 2012 modified the policy by stating that flex hours must be pre-arranged. Ms. Hanig did not provide any concrete examples of how this change would significantly and adversely affect her family life.

An individual may receive unemployment insurance benefits after leaving work due to intolerable or detrimental working conditions. See 871 IAC 24.26(4). On the other hand, an individual who resigns because of dissatisfaction with the work environment, a personality conflict with a supervisor or as a result of a reprimand is disqualified for benefits. See 871 IAC 24.25(21), (22), and (28). Ms. Hanig could legitimately view the October 2 memorandum as a warning that her job performance was lacking. The fact that she thought a warning was unwarranted did not give her good cause attributable to the employer to resign. It is clear from Ms. Hanig's testimony that she did not have a good working relationship with Ms. Markwalter and in general was dissatisfied with how the library was run. While she may have had good personal cause to resign, she did not have good cause attributable to the employer. Benefits must be withheld.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

- a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

- b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The question of whether the claimant must repay the benefits she has received is remanded to the Unemployment Insurance Services Division.

DECISION:

The unemployment insurance decision dated October 19, 2012, reference 01, is reversed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The question of repayment of benefits is remanded.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs