IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

AMY WARDEN Claimant **THE LAUNDRY PLACE LLC** Employer	**APPEAL NO. 22A-UI-05915-ED-T** **ADMINISTRATIVE LAW JUDGE DECISION** **OC: 2/13/22** **Claimant: Respondent (1)**

Section 96.5(1) – Voluntary Quit
Section 96.5(2)A – Discharge for Misconduct
Section 96.3(7) – Overpayment of Benefits
Iowa Admin Code. 871-24.10

STATEMENT OF THE CASE:

Employer filed a timely appeal from the March 3, 2022, reference 01, decision that awarded benefits. After due notice was issued, a hearing was held on April 15, 2022. Claimant, Amy Warden, did participate. Employer, the Laundry Place LLC, did participate through Michael Ramberg and was represented by attorney Mariah Sukalski. The employer updated its mailing address. No exhibits were offered or admitted.

ISSUE:

Did the claimant voluntarily quit?
Was the claimant discharged for misconduct?
Was the claimant overpaid benefits?
Did the employer participate in the factfinding interview?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed a full-time store manager beginning July 12, 2021. Michael Ramberg was claimant's immediate supervisor. The claimant's last day physically working for the employer was February 12, 2022. The claimant submitted her resignation to Regina Graham. The claimant had parked the company car at the Beaverdale location and gave the keys to Regina Graham. The claimant texted Mr. Ramberg that she was turning in her company car and giving the keys to Regina. The claimant's job was not in jeopardy at the time of her resignation. Continuing work was available had the claimant not quit. The claimant had no disciplinary actions during the course of her employment.

The claimant testified that she quit due to conflicts with her direct supervisor, Michael Ramberg. The claimant was told there would be light maintenance included in the job but the claimant felt the job had more intense maintenance involved. Additionally, the claimant testified that the manager contacted her at inappropriate times and rates. On one occasion, between 9:30 p.m. and 3:45 a.m. the next day, the manager texted the claimant 72 times. The claimant testified

that she would get calls throughout the night and was expected to provide a response. The claimant testified that she was told by Mr. Ramberg that she was a horrible manager one day and then was told that she was a great manager and she didn't understand why he would tell her things like that.

The claimant also testified that she got her bonus in October and was expecting her next bonus. Right before the next bonus, she was told we need to meet now. She was given 15 minutes to get from the South side to Ankeny. When she got there, Mr. Ramberg was freaking out because the clerk had used a band-aid to put a sign up on the wall rather than tape. The claimant went to her car and got the tape and supplies. She then went to the store to get a part for one of the machines that needed repair. While she was down the street, the called Regina and started yelling at her they were both lucky to have a job as there was no tape. The claimant testified that Mr. Ramberg would tell her that he would call the police if she didn't answer her phone. The claimant testified that the employer changed his whole business plan right before bonuses were due. When it was time for her to get her bonus, the claimant said she worked 60-70 hours per week doing all the 9 stores by herself. The claimant testified that she never received the bonus. The claimant testified that she had to call the police to ask Mr. Ramberg to stop texting her. Mr. Ramberg testified that the she had employees who told her Mr. Ramberg offered them $5,000 or $2,500 to provide information about the claimant's wrongdoing. The employer did not deny the statements the claimant made in her testimony but stated their issues were personality conflicts.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge finds that the claimant voluntarily quit with 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.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). In this case, the claimant voluntarily quit her employment. As such, claimant must prove that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

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:

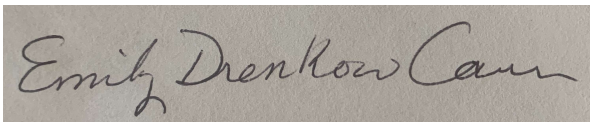
(4) The claimant left due to intolerable or detrimental working conditions.

Generally, notice of an intent to quit is required by *Cobb v. Employment Appeal Board*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Employment Appeal Board*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Employment Appeal Board*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). These cases require an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. Accordingly, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added, however, to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court concluded that, because the intent-to-quit requirement was added to 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Employment Appeal Bd.,* 710 N.W.2d 1 (Iowa 2005). "Good cause attributable to the employer" does not require fault, negligence, wrongdoing or bad faith by the employer. *Dehmel v. Employment Appeal Bd.*, 433 N.W.2d 700, 702 (Iowa 1988)("[G]ood cause attributable to the employer can exist even though the employer is free from all negligence or wrongdoing in connection therewith"); *Shontz v. Iowa Employment Sec. Commission*, 248 N.W.2d 88, 91 (Iowa 1976)(benefits payable even though employer "free from fault"); *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787, 788 (Iowa 1956)("The good cause attributable to the employer need not be based upon a fault or wrong of such employer."). Good cause may be attributable to "the employment itself" rather than the employer personally and still satisfy the requirements of the Act. *Raffety*, 76 N.W.2d at 788 (Iowa 1956). Therefore, claimant was not required to give the employer any notice with regard to the intolerable or detrimental working conditions prior to her quitting. However, claimant must prove that her working conditions were intolerable, detrimental, or unsafe.

It is reasonable to the average person that an employee should not have to work in an environment where a supervisor contacts her 72 times through the night regarding work issues. While communication is important between supervisor and employee, this amount of text messages is more than the average person should be expected to receive on his or her off work hours. Claimant has proven that her working conditions were intolerable and detrimental. Thus, the separation was with good cause attributable to the employer. As such, benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The claimant quit the employment for good cause attributable to the employer. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.



Emily Drenkow Carr
Administrative Law Judge

May 13, 2022
Decision Dated and Mailed
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