

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CINDALYN R MEADOWS

Claimant

APPEAL NO. 17A-UI-09220-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

INTERFACE SEALING SOLUTIONS INC

Employer

OC: 08/06/17

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 31, 2017, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on September 27, 2017. The claimant participated in the hearing. Deannie Wiens, Plant Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time customer service representative for Interface Sealing Solutions from May 17, 2016 to August 9, 2017. She voluntarily left her employment because she felt harassed by a co-worker and was offended by a 10 cent raise.

The claimant submitted her resignation notice August 2, 2017, with an effective date of August 11, 2017. She then notified Plant Manager Deannie Wiens she had turned in her vacation and would not be back until August 9, 2017. While the claimant was on vacation, payroll notified Ms. Wiens the claimant had only accumulated four hours of vacation to date. Ms. Wiens called the claimant August 7, 2017, to notify her she would not be paid for most of her vacation and the claimant stated she might not return August 9, 2017. Ms. Wiens encouraged the claimant to come in and pick up her personal belongings and say good bye to her team. On August 9, 2017, the claimant came in and said goodbye and left. The employer sent the claimant a COBRA letter stating her benefits would be terminated but the employer did not terminate the claimant's employment prior to her resignation date.

In June 2017, the claimant went to Ms. Wiens as the team spokesperson with complaints about Team Member Donald Wilder. The claimant felt Mr. Wilder was harassing her by either not responding to her questions or comments or yelling at her. Mr. Wilder behaved in that manner toward other team members as well but the claimant believed he harassed her more than the

other team members. Ms. Wiens held a team meeting and encouraged the team to tell Mr. Wilder his behavior was inappropriate and offensive but the claimant was uncomfortable and felt Ms. Wiens should have spoken to him about his conduct.

The claimant was "offended" by the 10 cent raise she received from the employer. She felt she had the most difficult account and that by offering her a 10 cent raise, the employer showed it did not value her.

The claimant also recalled a period of racial harassment between May 2016 and August 2016. Complaints were made against the offending individual and the employer discharged that employee at the end of August 2016.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

Iowa Code § 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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 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). The law presumes a claimant has left employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The claimant argues that she quit due to intolerable or detrimental working conditions. The conditions that she believes were intolerable or detrimental included a co-worker who often responded rudely when she asked him questions or did not respond at all, the amount of her raise, and a racist employee who was discharged one year prior to the claimant's leaving.

It would be reasonable for the employee to inform the employer about the conditions the employee believes are intolerable or detrimental and to have the employee notify the employer that she intends to quit employment unless the conditions are corrected. This would allow the employer a chance to correct those conditions before a quit would occur. However, the Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. *Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant*, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The claimant notified the employer of her concerns with regard to the rude co-worker and the employer did

hold a meeting with the team and thought the situation was resolved. While team members holding each other accountable is certainly a worthy goal, it is not appropriate for the employer to effectively place one team member in the position of feeling like she is being required to discipline another team member. She did not express her issues with the small pay raise she received. The employer never promised the claimant a wage increase and her displeasure with the 10 cent raise while understandable, is not considered a good cause reason attributable to the employer for her leaving. The final incident the claimant brought up in the hearing involved a racist co-worker. That employee was terminated nearly one year before the claimant left her employment. Consequently, that situation is not being considered as a reason for the claimant's leaving. The claimant subsequently quit due to those three conditions.

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).

Under these circumstances, the administrative law judge must find the claimant was dissatisfied with her work environment and voluntarily quit for that reason. Therefore, benefits must be denied.

DECISION:

The August 31, 2017, 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn