

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JODI L GRIFFITH**  
Claimant

**CITYWIDE CLEANERS INC**  
Employer

**APPEAL 18A-UI-11695-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/08/18**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the November 26, 2018, (reference 04) that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on December 27, 2018. Claimant participated. Employer participated through John Albert, President. Official notice was taken of agency records.

**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 began working a full-time production worker on October 22, 2018 through October 26, 2018, when she voluntarily quit. The claimant quit because she did not like the foul language used by her coworkers and because she did not like the way one of her coworkers talked about “beating” her child with a wet spoon.

Mr. Albert is in charge of the production facility. Unfortunately, on October 23 he was hospitalized for kidney stones for one-half day. He was not able to be in the facility as much as he normally was due to his ill health. On October 23 the claimant complained to Dawn, another employee about the foul language some of her coworkers were using. Dawn took the claimant’s complaint to Janet, Mr. Albert’s wife who normally works in the office. Mrs. Albert went to see the claimant about her complaints. Claimant again told her that some of her coworkers were using foul language around her and one was talking about “beating” her child. Mrs. Albert relayed what had been said to Mr. Albert on October 24, who at that time was still ill with kidney stones. Mr. Albert worked only a small part of the day on October 24 and 25 until he was hospitalized again on October 26. Due to his serious health issue, Mr. Albert was not able to address the claimant’s complaints immediately. The claimant had asked her coworkers, Carissa specifically not to use foul language in front of her and Carissa agreed to try and stop swearing. Carissa had just learned that her Mother, who was caring for her child in Florida, had terminal cancer and her child would be returning to Iowa to live with her.

The claimant called the facility on October 26 and voluntarily quit. When Mr. Albert learned she had quit, he called her back and explained that he was ill and had not been able to address her concerns. Mr. Albert believed it was unprofessional of the claimant to quit after only one week of work without giving him a chance to investigate her complaints due to his ill health.

At no time did Mr. Albert yell at or reprimand the claimant about her work performance. She was a new employee and was never expected to work as quickly as employees who had been on the job much longer.

It is not unreasonable for an employer to expect an employee to work overtime when needed. During her interview the claimant never indicated that she had to be off work each day by 3:00 p.m. The claimant only indicated she wanted to see her daughter's volleyball games at 3:30 on Thursday during the season.

Continued work was available for the claimant if she had not quit.

### **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 section 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.

Iowa Admin. Code r. 871-24.25(6) 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:

(6) The claimant left as a result of an inability to work with other employees.

Iowa Admin. Code r. 871-24.25(18) 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:

(18) The claimant left because of a dislike of the shift worked.

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).

"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).

An employer must be given time to investigate or address an employee's complaints. Mr. Albert was hospitalized twice during the claimant's sole week of employment and unable to immediately address her concern with "foul" language used by her coworkers. Foul language or swearing is a common occurrence in everyday life. The claimant was not threatened by any coworker. Claimant found the profanity offensive, but simply did not give the employer an adequate opportunity to address the situation. An employer can require employees to work overtime. The claimant's evidence, simply does not establish that she was subjected to an intolerable work environment that would give her good cause to voluntarily quit the employment.

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 26, 2018, (reference 04) 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.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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