

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARIA PULIDO CHAVARRIA
Claimant

TPI IOWA LLC
Employer

APPEAL 21A-UI-18331-DH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 06/06/21
Claimant: Appellant (2)**

Iowa Code § 96.5(1) - Voluntary Quit
Iowa Code § 96.5(2)a - Discharge for Misconduct
Iowa Admin. Code r. 871-24.26(4) – Intolerable working conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 17, 2021, (reference 01) unemployment insurance decision that denied benefits based upon her June 9, 2021 voluntary quit for personal reasons not attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on October 13, 2021. Claimant, Maria Chavarria, participated with the assistance of Spanish interpreter Geronimo #13850, along with Ariel Gomez and Katrina Velasquez. Carman Arellano was registered as a witness for claimant, did not answer when the phone number provided was called, did not call back based upon the voice mail message left. Employer, TPI Iowa LLC, participated through Danielle Williams. Judicial notice was taken of the administrative file.

ISSUE:

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause?

FINDINGS OF FACT:

Having heard the testimony and reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time with a set schedule as a finisher/painter from October 12, 2021, with a last day worked of June 9, 2021, when she was separated from employment on June 9, 2021, when she quit work June 9, 2021.

Ricardo and Sylvia work are a husband and wife that work at TPI. Claimant was being harassed by a Ricardo at TPI. Ricardo's behavior, at best is misogynistic and bullying in nature. Ricardo wanted claimant (and other females in the same area) to do his work. Ricardo and Sylvia were on the same work group, but Sylvia got moved, since TPI has a policy about family not being on the same work group. Ricardo blamed claimant for his wife being moved, and had threatened that if claimant kept talking, he'd take her residency papers. Claimant and witnesses took this to mean he'd attempt to get her deported from the country. Claimant complained about Ricardo's

behavior and threat to human resources, with over a year going by with TPI taking no action, leading to June 9, 2021.

Ricardo picked an argument with claimant, telling her to go do his job and she told him to do his own work. Ricardo got angrier and claimant thought Ricardo was going to throw chemicals on her, but he threw a file folder at her. A team leader intervened, asking what was going on and Ricardo lied about what transpired. Claimant stated to the effect that Ricardo doesn't have the balls to tell the truth, and advised what transpired, and added that he's threatened her residency with nothing being done. The team leader directed claimant to go outside to sand wings, and the team leader brought Sylvia back to the work group to fill claimant's spot. Claimant observed this and told the team leader that Sylvia is not supposed to be on the work group, nor anywhere near claimant, and why is she being moved versus Ricardo and been a year and she's still waiting on a response regarding Ricardo's threat, let alone what is going on now. The team leader just directed her to go sand wings. Claimant left work, quitting. Claimant had reported behavior and no action taken in past, reported the assault that day and no action taken against Ricardo, claimant was moved to outside work and Ricardo's wife was brought back to the work group. There was an intolerable and detrimental working conditions due to Ricardo and to some part, Sylvia. Employer took minimal action (removing Sylvia) and no action against Ricardo. On the June 9 incident, employer took no action against Ricardo, brought Sylvia back and switched claimant to outside work, making the conditions even worse. Claimant's witnesses confirm Respondent's testimony. Ms. Velasquez wanted it known that Ricardo was not a supervisor, just a really bad person.

Employer's witness was nominally aware of the issue, in that the file did show a number of complaints filed. The witness stated they were not prepared to discuss that matter, but asserted claimant was a no call no show regarding her scheduled work shifts on June 10, 14, 15 and 18. This would be accurate, given the voluntary quit for good cause on June 9, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily left the employment with good cause attributable to the employer.

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.

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.

Claimant has the burden of proving 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). 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).

Having to deal with continual bullying, misogynistic, verbally abusive, behavior and threats towards her “residency papers” taken to mean her immigration status is not what an employee should have to deal with. The employer failed to act for over one year. When things escalated to a physical assault (Ricardo throwing a file at claimant), not only did the employer fail to take any action against Ricardo, but put claimant to outside work and brought back Ricardo’s wife to the work group. Claimant’s leaving was for good-cause reason attributable to the employer according to Iowa law.

DECISION:

The August 17, 2021, (reference 01) unemployment insurance decision is **REVERSED**. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.



Darrin T. Hamilton
Administrative Law Judge

November 10, 2021
Decision Dated and Mailed

dh/kmj