

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NICOLE MONTGOMERY
Claimant

APPEAL NO: 13A-UI-00695-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DECKER TRUCK LINE INC
Employer

**OC: 12/16/12
Claimant: Appellant (5)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Nicole Montgomery (claimant) appealed an unemployment insurance decision dated January 10, 2013, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily resigned her position with Decker Truck Line, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 19, 2013. The claimant participated in the hearing. The employer participated through Brenda McNealey, Director of Human Resources and Joanne Kramer, Administrative Assistant for Human Resources and Safety. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time claims processor from November 30, 2011 through December 13, 2012. She submitted her written resignation on December 7, 2012 with an effective date of December 21, 2012. The employer let her go on December 13, 2012 because her continued employment was uncomfortable for the remaining staff. The claimant's resignation letter stated, "Brenda, please accept this message as notification that I'm leaving my position with Decker Truck Lines Incorporated effective two weeks from today December 7, 2012. I greatly appreciated most of my time with your company. Recent changes and departmental organization have made me feel unable to continue working for Decker. I would also like to document that if my supervisor, Chris Jones, Director of Safety continues with his demeaning attitude and/or hostile work environment that he has created and which I have discussed with you, will leave me no choice but to make my resignation effective immediately Please feel free to contact me with any questions about the projects that I've been working on."

The claimant was unable to continue working for her supervisor because of the “confrontations” and the “hostile work environment.” She said Mr. Jones was demeaning to her and that he “verbally attacked” her. He told her she was rude and disrespectful; she needed to communicate better; she was not a team player; she needed to take more initiative; she needed to have more respect for herself; she should have higher goals; and she was a “horrible employee.” The claimant was upset that Mr. Jones did not give her examples of better communication and how she was not being a team player.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the reasons for the claimant’s separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980) and *Peck v. Employment Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out by submitting her two-week written resignation on December 7, 2012. The employer discharged her on December 13, 2012 but since she was paid for the week ending December 22, 2012, it is not necessary to make a determination as to whether or not she was discharged for work-related misconduct one week prior to the effective date of her resignation.

The claimant quit her employment due to an alleged hostile work environment created by her supervisor. 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).

The evidence provided by the claimant does not rise to an intolerable or detrimental work environment. Her testimony as to her supervisor’s actions appeared overly exaggerated. For example, she said that in a meeting, Mr. Jones asked “everybody” to look at her “body” but upon further questioning, she admitted that her supervisor was referring to her “body language” and how she was not receptive to him talking about changes that he wanted to make within the department. In another example, she testified that Mr. Jones said he felt sorry for her husband. However, she explained that he was disappointed she was not showing more enthusiasm for a new program that he was trying to implement. He then talked about her husband bringing her an 18 carat diamond ring and how she would say she had to look at it first.

“Good cause” for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (Florida App. 1973). It is the claimant’s burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied her burden and benefits are denied.

DECISION:

The unemployment insurance decision dated January 10, 2013, reference 01, is modified with no effect. The claimant voluntarily left work without good cause attributable to the employer.

Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css