

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

LUKE A DONDLINGER
Claimant

APPEAL 15A-UI-02753-KCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SABRE COMMUNICATIONS CORP
Employer

OC: 07/13/14
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 18, 2015 (reference 03) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on April 6, 2015. The claimant participated. The employer was represented by Erin Baird. Exhibit A was received into evidence.

ISSUE:

Did the claimant voluntarily quit employment with good cause attributable to the employer?

FINDINGS OF FACT:

The claimant was employed full-time as a senior structural detailer beginning September 24, 2014. He was separated from employment on January 30, 2015 when he resigned.

The claimant shared a small office with co-worker Pam Bottoroff. They had the same title and he was initially supposed to receive some guidance about company procedures from Bottoroff. He was hired, in part, to provide 3-D modeling because the employer did not have staff with that capacity.

Information was stored in various places on the employer's servers and mainframes, with which the claimant had to be familiar. Bottoroff's instructions about where to obtain necessary information were sometimes inaccurate. When the claimant told project manager Matt Castle about the situation, Castle directed him to the correct location for the information which enabled him to complete his tasks. On occasion, the claimant continued to receive what he believed was inaccurate information from Bottoroff which he reported to Castle. Repeatedly, he received accurate instructions from Castle in order to complete his work. Castle indicated that he would address the situation but the claimant needed to continue consulting Bottoroff.

The claimant also had difficulty working in the shared office with Bottoroff because she had daily, lengthy conversations about matters that were unrelated to work. The conversations interfered with his ability to work and he asked her to take the conversations elsewhere. The claimant used headphones; however, he was still unable to avoid the distracting

conversations in the shared office. The claimant complained to Castle in November and December 2014 about the distracting conversations. There was no significant change in the situation. The claimant also received a photocopied image of a t-shirt from a co-worker, who is a friend of Bottoroff, which stated "warning, my sense of humor may hurt your feelings, I suggest you get over it." (Exhibit A.)

On January 26, 2015, the claimant told Castle that he was facing a project deadline and he could not work if things continued the same way. On January 27, 2015, the claimant resumed work in the shared office and Bottoroff declined his request to take her conversations elsewhere. The claimant asked to work in Castle's office so that he could complete his work. Castle again indicated that he would address the situation.

On January 28, 2015, the claimant was called into a meeting with Castle, Paula Peterson, Human Resources Manager, and Director Delvin Wildy. He received a document from Castle that indicated he would be terminated if he was late arriving to work or left early for lunch. The claimant asked why he received the document and Wildy told him that Bottoroff reported feeling intimidated by the claimant. The claimant reported that he felt the document was issued in response to his complaints about Bottoroff. He was told that she was a top performer however the employer identified no complaints about the claimant's job performance. Managers retrieved the document from the claimant and then met with the claimant and Bottoroff individually.

On the same date, members of management told the office-mates that they would each be moving to cubicles. The claimant moved his things into his assigned cubicle near the office kitchen. On that date, someone kicked on the side of his cubicle and another co-worker remarked about the claimant being placed on "kitchen duty."

On January 29, 2015, a day on which he was scheduled to work, the claimant called Peterson. at the phone number she had given him in the meeting the previous day. He left a message stating that he felt the situation had gone from bad to worse so he was resigning. The claimant was separated from employment on January 30, 2015.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without 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.

Iowa Admin. Code r. 871-24.25(6) and (21) provide:

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 § 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 § 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.

(21) The claimant left because of dissatisfaction with the work environment.

The 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).

The claimant reported being in a working environment that made it more difficult to complete his work. The project manager provided him with the information he was seeking to complete his tasks. The employer made no negative statements about his work. The claimant reported the interpersonal differences he had with his officemate to the project manager. While the employer did not separate the two officemates until several weeks after the claimant's original complaint, the claimant quit the position one day after the claimant and his former office-mate were placed in separate work areas. The employer took action to modify the working environment after speaking with the two co-workers and hearing their respective positions.

While the claimant stated that a co-worker commented that he was being placed on "kitchen duty" based on the location of the cubicle and another co-worker kicked the cubicle in which he had just moved, those incidents on the first day of the move into a new work setting are not sufficiently serious to warrant leaving the position. The claimant did not wait to see how the new office setting would work out or if it would address his concerns about his former co-worker's conversations.

While the claimant's leaving the employment may have been based upon good personal reasons, it was not for a good cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The February 18, 2015 (reference 03) unemployment insurance decision is affirmed. The claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Kristin A. Collinson
Administrative Law Judge

Decision Dated and Mailed

kac/can