

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

REBBECA ROTH

Claimant

APPEAL 20A-UI-00490-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MONTEZUMA MFG DIV OF DIEOMATIC INC

Employer

OC: 06/23/19

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

Iowa Admin. Code r. 871-24.25(29) – Quit in Advance of Layoff

STATEMENT OF THE CASE:

The claimant/appellant, Rebecca Roth, filed an appeal from the January 8, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 4, 2020. The claimant participated personally. Bill Swartz and Pam Pulls testified on behalf of the claimant. The employer did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing.

The administrative law judge took official notice of the administrative records including the fact-finding documents. Claimant Exhibits A-D were admitted. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

At issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered all the evidence in the record, the administrative law judge, finds: The claimant began work for this employer on August 5, 1996 and last performed work on December 19, 2019 as a full-time production worker. The claimant quit the employment to accept a severance package. Continuing work was available.

The employer met with employees and the employees were told of the plan and offered an opportunity to remain employed, in hope that their job would not be eliminated, or taking the option of accepting a severance package that was being offered by the company to employees who volunteered to quit their job prior to the company mandating which job positions would be eliminated. The claimant as well as other workers, were given the opportunity to remain employed or to resign and accept the severance package. The claimant acknowledged as an employee with seniority, she would not have likely been laid off if she had not accepted the severance offer, but that she hoped she could save the job of a less senior employee by

accepting the package. The claimant accepted the severance package and voluntarily quit her employment effective December 20, 2019.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit the employment without good cause attributable to the employer. Benefits are denied.

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 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: ...

(29) The claimant left in anticipation of a layoff in the near future; however, work was still available at the time claimant left the employment.

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). In this case, the employer offered claimant and other long-tenured employees the opportunity to accept a voluntary layoff in exchange for a compensation package. Claimant accepted the employer's offer. While claimant may have had good reason to believe that future, mandatory layoffs were coming, this is not a good-cause reason for claimant to quit her employment.

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). In this case, claimant intended to end her employment when she accepted the employer's offer of a voluntary layoff. Claimant acted overtly by taking the voluntary layoff and accepting the compensation package offered to her. While the claimant's reasons for leaving her employment were undoubtedly good-cause reasons from her personal viewpoint, for the above-stated reasons the administrative law judge concludes they were not good-cause reasons that were attributable to the employer.

The administrative law judge finds claimant separated from employment without good cause attributable to the employer. Benefits are withheld.

DECISION:

The representative's decision dated January 8, 2020 (reference 01) is affirmed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

Jennifer L. Beckman
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Decision Dated and Mailed

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