

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ROBERT J SERO
Claimant

AREA SUBSTANCE ABUSE COUNCIL INC
Employer

APPEAL 16A-UI-06467-JCT
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/08/16
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 2, 2016, (reference 01) unemployment insurance decision that denied benefits based upon separation. The parties were properly notified about the hearing. A telephone hearing was held on June 24, 2016. The claimant participated personally. The employer participated through Dedric Doolin. 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:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a counselor and was separated from employment on May 3, 2016, when he quit without notice. Continuing work was available.

The claimant quit because he believed his anxiety was being affected by work conditions. The decision to quit was not based on the recommendation of the claimant's treating physician. Specifically, the claimant indicated that the "clique-ness" culture of the employer, which included gossip, contributed to his resignation without notice.

Prior to separation, the claimant was made aware from a co-worker, Yvonne, that other co-workers believed he had been hitting on a co-worker named Tenesha. There was some reference to the claimant reportedly trying to "friend" Tenesha on Facebook the prior fall. There were also reportedly rumors regarding whether the claimant was drinking on the job. The claimant did not confront Tenesha, Yvonne or co-workers about what or why they were allegedly gossiping about him. The claimant attempted to contact management to request a meeting, to discuss the ongoing issue. After a week of no meeting, the claimant made a second request, before electing to resign.

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 § 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(21) and (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:

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

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

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. See 871 IAC 24.25. "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. Industrial Relations Commission*, 277 So.2d 827 (Fla. App. 1973). 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).

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.* After assessing the credibility of the witnesses

who testified during the hearing, considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge finds the weight of the evidence in the record fails to establish intolerable and/or detrimental working conditions that would have prompted a reasonable person to quit the employment without notice.

The claimant quit due to anxiety he felt was aggravated by his work conditions. The decision to resign was not supported by a medical recommendation. The administrative law judge is sympathetic to the claimant's concerns regarding the "clique-y" culture within the employer, but is not persuaded that the conditions were such that a reasonable person would quit without notice. The nature of the rumors, which were not made in the presence of the claimant, were not alleging illegal or immoral conduct, but rather the product of workplace gossip. The administrative law judge does not condone office gossip but accepts that it occurs in most workplaces on some basic level and does not believe, based on what the claimant shared, that it would rise to the level of harassment or bullying in the workplace.

Based on the evidence presented, the administrative law judge concludes the claimant's leaving the employment because of work conditions may have been based upon good personal reasons, but it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The June 2, 2016, (reference 01) 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.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/pjs