IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU

TRICIA A BEACHY Claimant **SIOUX CITY COMMUNITY SCHOOL DIST** Employer	**APPEAL 19A-UI-06801-CL** **ADMINISTRATIVE LAW JUDGE DECISION** **OC: 08/04/19** **Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On August 26, 2019, the claimant filed an appeal from the August 21, 2019, (reference 01) unemployment insurance decision that denied benefits based on a separation from employment.

Claimant requested an in-person hearing. The hearing was scheduled in Sioux City, Iowa, for September 11, 2019. The parties were properly notified about the hearing.

On September 9, 2019, claimant requested to participate in the hearing by written statement because she was ill. The administrative law judge offered to allow claimant to participate by telephone or postpone the hearing. Claimant reiterated her request to participate in writing. The request was granted and employer was therefore permitted by the administrative law judge to attend by telephone.

A telephone hearing was held at the same scheduled time on September 11, 2019. Claimant participated in writing only. Employer participated through food service supervisor Rich Luze, field operations manager Anita Treglia-Foster, director of human resources Dr. Rita Vannatta, and assistant director of human resources Stefanie Verros. Employer's Exhibits 1 through 9 were received.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on September 26, 2011. Claimant last worked as a part-time elementary food service server. Claimant was separated from employment on August 4, 2019, when she resigned.

When employer hired claimant, it let her know that it tries to assign employees to work at a school in close proximity to their residence, but does not guarantee that it will do so.
Employer originally assigned claimant to work the lunch shift at Nodland Elementary.

In 2012 or 2013, claimant also began picking up substitute shifts serving breakfast at Sunnyside Elementary. In 2014, claimant began serving breakfast at Sunnyside Elementary as a permanent employee.

During claimant's time at Nodland Elementary, several employees complained that claimant was difficult to work with. In 2015, employer gave claimant a verbal warning about working well and getting along with others. From then on, the issue was mentioned each year on claimant's annual performance evaluation.

Due to the ongoing interpersonal issues, employer assigned claimant to work lunch at Spalding Elementary for the 2017-2018 school year. After two days working at Spalding Elementary, claimant requested to be transferred to another school.

Claimant had been diagnosed with a non-work related medical condition. Spalding Elementary is a larger school than Nodland Elementary, and therefore the workload for a lunch server is more strenuous. Claimant requested an accommodation to be assigned to work at a smaller school, accompanied by a doctor's note. Employer engaged in the interactive process and met with claimant. Employer offered claimant her choice of a position at three smaller schools. Claimant chose to work the lunch shift at Clark Elementary. Claimant continued to serve breakfast at Sunnyside Elementary.

In December 2017, employer had a documented discussion with claimant about getting along with co-workers. During that meeting claimant stated she was happy working at Clark Elementary and was not having issues there.

In March 2019, claimant mentioned to her supervisors that she wanted to work at a school other than Clark. Claimant's supervisors informed her that she could not work at the specific schools she mentioned because the workload was outside of her requested accommodation. Claimant then submitted new documentation stating that she could work at larger schools during the summer only, when fewer students were present. Claimant planned to work at a larger school during Summer 2019, but ultimately did not as she had family issues to attend to.

At the end of the 2018-2019 school year, employer's food service department made some changes. Employer decided it was going to require all food service workers to work breakfast and lunch at the same building. Employer also decided that the cafeteria at Sunnyside Elementary was going to do more food preparation on site. As a result, the workload at Sunnyside would be more similar to the workload at a larger school. Therefore, the employer believed the workload would be outside of claimant's restrictions. When the issue was explained to her, claimant did not disagree.

Employer informed claimant she would no longer be assigned to serve breakfast at Sunnyside and offered claimant a breakfast position at Clark Elementary. Claimant declined the breakfast position at Clark Elementary, stating it took her 18 minutes to drive to Clark Elementary from her home and she did not want to drive that far during the break between breakfast and lunch from 9:00 a.m. until 10:45 a.m. Employer calculated the distance between claimant's residence and Clark Elementary as being 6.6 miles. Nevertheless, employer allowed claimant to decline the breakfast position at Clark and was planning to keep her on for the lunch position only.

In July 2019, claimant filed an internal complaint with the school alleging her supervisor, Rich Luze, treated her unfairly due to her medical condition. Employer investigated the complaint, but found it was unsubstantiated.

On August 4, 2019, claimant submitted an email stating she was resigning due to being mistreated based on her medical condition.

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 section 96.5(1) provides:

> An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:
>
> 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.

In this case, claimant asserts she resigned due to intolerable working conditions. Specifically, claimant asserts she was treated poorly because of her ongoing health condition.

Claimant specifically complains of the schools at which she was assigned to work. Claimant was transferred out of Nodland Elementary because she had issues getting along with her co-workers at that location. Employer had reasonable grounds for taking this action. The other transfers (or lack thereof) were the result of claimant's request for accommodations or because of the food department's policy decisions which applied to all employees and school buildings equally. Claimant failed to establish employer singled her out or treated her in a way that would have been intolerable to an objective person in the same situation.

Although claimant may have resigned for good personal reasons, she failed to establish she resigned for a good cause reason attributable to employer.

DECISION:

The August 21, 2019, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

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Decision Dated and Mailed

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