

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LARRY E KIRKLAND
Claimant

APPEAL NO. 07A-UI-06502-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

O'REILLY AUTOMOTIVE INC
Employer

**OC: 06-03-07 R: 04
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 19, 2007, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on July 17, 2007. The claimant did participate. The employer did participate through Perry Hess, District Manager.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a Store Manager full time beginning October 30, 2000 through May 31, 2007, when he voluntarily quit.

The claimant did not get along with an employee who worked for him named Ernie. Ernie complained to corporate that the claimant was engaged in nepotism and had hired family members and had discriminated against him. The claimant admitted that he had hired family members but denies discriminating against Ernie. The claimant had given Ernie a poor or less than satisfactory performance evaluation and had denied him a promotion. The claimant wanted the company to discharge Ernie and put in his resignation hoping that it would spur the corporate department to do what he wanted.

There was also a personality conflict between Darcy and Ernie. Darcy was the claimant's girlfriend. Ernie had been denied a promotion and was upset about his denial of promotion and threatened to sue the company. The claimant was the supervisor of both Ernie and Darcy, and Ernie felt that he took Darcy's side whenever a dispute arose. That spurred Ernie to complain about nepotism, which resulted in an investigation.

The claimant simply wanted the company to do what he wanted and to manage as he saw fit, regardless of what Ernie's complaints or issues were. When the claimant's district manager, Perry Hess, would not take the actions the claimant thought he should, he submitted his resignation in the hope that the company would fire Ernie. The company accepted the

claimant's resignation. Continued work was available for the claimant if he had not voluntarily resigned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his 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.

871 IAC 24.25(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 § 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.

871 IAC 24.25(21) 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 § 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:

(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). An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. *Cobb v. Employment Appeal Bd.*, 506 N.W.2d 445 (Iowa 1993).

The claimant's girlfriend, Darcy, and Ernie did not get along, and the claimant was the supervisor of both. It is clear that the claimant also did not get along with Ernie and had been put in the middle between Ernie and Darcy when issues or complaints arose. Ernie's complaint to the corporate human resources department that nepotism was affecting the store was valid. The claimant's inability to get along with Ernie and his dissatisfaction with the corporate human

resources departments decisions were not good cause reasons attributable to the employer for leaving the employment. The employer was not obligated to act in a manner that was pleasing to the claimant. Benefits are denied.

DECISION:

The June 19, 2007, reference 01, decision is affirmed. The claimant voluntarily left his 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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw