

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELISSA HOLMES
Claimant

APPEAL NO. 08A-UI-08588-B

**ADMINISTRATIVE LAW JUDGE
DECISION**

FBL FINANCIAL GROUP INC
Employer

**OC: 08/03/08 R: 02
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Melissa Holmes (claimant) appealed an unemployment insurance decision dated September 16, 2008, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with FBL Financial Group, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a hearing was held in Des Moines, Iowa, on October 15, 2008. The claimant participated in the hearing with her mother, Marilyn Cope, in attendance. The employer participated through Sara Deich, Human Resources Specialist, and Paul Swinton, Senior Counsel. Employer's Exhibits One through Three and Claimant's Exhibits A, B, and C were admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a full-time product development test associate from December 1, 2005 through August 1, 2008. After approximately one year, Tom Steffen became her direct manager. There were no significant problems until April 11, 2008, when some new software was installed on the computers in the business solutions department. The claimant said the software had not been tested and she noticed problems with it from the beginning. She believed the computers were not capable of successfully running this complex software. The problem came about that she did not feel her manager was listening to her complaints and he wanted to push the software through regardless of how well it worked. It appears this issue or rather, this problem, became all-consuming to the claimant. She testified in the hearing that her supervisor often glared at her, stomped, became red-faced, refused to talk at her, and demanded she produce results. The claimant said the supervisor told her to lie but subsequently admitted he never actually

used those words. Her co-worker also saw difficulty with the software but did not perceive the problems in the same manner and did not have any noted problems with the supervisor.

The claimant's original complaint letter dated July 22, 2008 was provided to Sara Deich of Human Resources on July 24, 2008. She provided a corrected complaint letter and the only significant difference is that the first letter indicates she is asking for help "until I can find another job" and that she is "looking furiously for another job." Both complaint letters confirm that her "manager did acknowledge the problems with the machines in April and May but now he no longer does." Earlier in the letters, she states, "In my yearly review in June, my manager praised my ability to perform my job. His entire attitude towards me changed the first week of July when he returned from vacation. He now implies that I am not correctly creating or modifying the computer code that runs the automated testing environment." This suggests the problems with her manager did not actually begin until July 2008. She complains that her manager "grabbed and squeezed my shoulder" on July 10, 2008 which frightened her.

Ms. Deich called the claimant on July 25, 2008 and met with her on July 28, 2008 to discuss the problem. Ms. Deich had the claimant and her supervisor meet on July 30, 2008 to attempt to resolve the issues. Ms. Deich's notes indicate that the claimant may have interpreted her supervisor's touch on her shoulder on July 10, 2008 to be aggressive when it was actually just a friendly gesture. Ms. Deich reported the claimant understood her supervisor did not mean to make her anxious but that was the result. The three discussed the problems and set up a plan of expectations, with which the claimant agreed. The claimant stated she did not feel she could come to work on July 31, 2008 but would return to work on August 1, 2008 at 7:00 a.m., and that was how the meeting ended.

Instead of reporting to work, the claimant sent Ms. Deich and her supervisor an email at 6:33 a.m. on August 1, 2008 that stated as follows: "I regret to inform the both of you that I will not be at my desk this morning, I will however be in the office when I can come in to clean out my desk and speak with the vice president of human resources." The claimant's absence and her email confirmed to Ms. Deich that she was resigning. The claimant did not report to work that day and did not go to her desk but did go to work to speak with the vice-president of human resources to present her complaint. The claimant handed the vice-president a lot of information and he asked if he could take the weekend to review it and she agreed. Ms. Deich showed the claimant's email to the vice-president of human resources and he also took it as a voluntary resignation, so he had no further reason to discuss the issues with the claimant. Ms. Deich spoke with the claimant on August 4, 2008 but refused to address the issues further, as the claimant had voluntarily quit.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer or if the employer discharged her for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a. There is no evidence of a discharge in this case. The claimant contends she did not quit her employment but admits she would have quit her employment if things did not change.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit when she failed to return to work

on August 1, 2008 as agreed. She carried out that intent by sending an email which states as follows: "I regret to inform the both of you that I will not be at my desk this morning, I will however be in the office when I can come in to clean out my desk and speak with the vice president of human resources." The claimant contends the email was not a resignation notice and that she meant she meant to say "clean off her desk" as opposed to "clean out her desk." Looking at the situation objectively, the administrative law judge does not appreciate the difference. Furthermore, the claimant had picked that date when she wanted to return to work but subsequently failed to return.

The claimant voluntarily quit her employment because of the problems with her manager concerning the computer software that was not working efficiently. "Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (Florida App. 1973). In the case herein, it does appear that the claimant was overly sensitive. An example of this is how she testified in the hearing that, "Ms. Deich twisted my words and turned things around" when referring to how Ms. Deich interpreted her August 1, 2008 email. When further questioned, the claimant admitted no words were twisted but she was just upset that Ms. Deich relied on the email as her resignation and ignored her denial of that fact. While the claimant's reasons for leaving employment may have been monumental to her, they were personal in nature and cannot be attributed to the employment.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated September 16, 2008, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw