

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ASHLEY J SANDER
Claimant

APPEAL NO. 11A-UI-11458-N

**ADMINISTRATIVE LAW JUDGE
DECISION**

CLEARY BUILDING CORP
Employer

**OC: 07/31/11
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Ashley Sander filed a timely appeal from a representative's decision dated August 22, 2011, reference 01, which denied unemployment insurance benefits. After due notice, a hearing was held in Ottumwa, Iowa on November 8, 2011. Ms. Sander participated personally. Appearing as a witness for the claimant was Ms. Carol Sander, the claimant's grandmother. The employer participated by Mr. Joe Jursenas, Regional Manager. Claimant's Exhibits One through Eleven and Employer's Exhibits A through G were received into evidence.

ISSUE:

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

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Ashley Sander was employed by Cleary Building Corporation from November 1, 2010 until August 2, 2011 when she voluntarily quit employment. Ms. Sander worked as a full-time administrative assistant and was paid by the hour. The claimant's new supervisor, the manager of the facility where Ms. Sander was employed, had been hired on August 1, 2011. The claimant had previously reported to Mr. Joe Jursenas, the regional manager for a number of months before leaving her employment.

The claimant left her employment with Cleary Building Corporation on August 2, 2011 after being criticized by an individual at the corporate headquarters for the manner in which she performed a portion of her duties. The claimant had been extremely dissatisfied with numerous aspects of her employment during the preceding months because key management and hourly employees had left Cleary's Fairfield, Iowa branch. Because there was no branch manager or construction manager or administrative assistant, Ms. Sander had been required to perform an extraordinary number of duties which included fielding numerous complaints about the company's work, delays in its work or delays in providing bids for new work. Ms. Sander had worked numerous overtime hours and at times had been badgered by disgruntled company customers. The claimant had gone to the extraordinary lengths of attempting to resolve building complaints by going directly to the company's engineering department for information and

repeatedly attempted to placate individuals who called the facility or came in in-person with issues.

During the extended period Ms. Sander had repeatedly informed her acting supervisor, the regional manager, Mr. Jursenas about work-related issues and the stress that her work was causing the claimant. Although Mr. Jursenas had requested some calls be referred to him and otherwise intervened to assist the claimant when possible, Ms. Sander's workload and work issues continued to be unreasonably burdensome.

Although Ms. Sander had gone to other individuals such as Sue Oliver, the manager of human resources in the past for other issues, she did not directly go to Ms. Oliver or any other higher management above Mr. Jursenas to complain about working conditions, her workload or other numerous factors that were occurring at the branch since other key workers had left. The claimant assumed from the number of her communications with Mr. Jursenas and the company's engineering department that the company was aware of her plight. The claimant also had issues about what she believed to be unauthorized deductions of working hours being made by the company for hours that she had actually performed services. Ms. Sander elected not to bring these matters to the attention of the company because of her affection for the job and desire to remain employed.

On August 1, 2011, the company hired a replacement branch manager and Ms. Sander was introduced to her new supervisor by her acting supervisor, the regional manager. Although the assistance that had been previously promised on numerous occasions had arrived, Ms. Sander elected to leave her employment after receiving a communication from the corporate headquarters that was critical of her work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the claimant voluntarily left her employment without good cause attributable to the employer.

Iowa Code section 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.

The claimant has the burden of proving that the voluntary leaving was for a good cause attributable to the employer. Iowa Code section 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 Board, 506 N.W.2d 445 (Iowa 1993). An employee who receives a reasonable expectation of assistance from the employer after complaining about working conditions must complain further if conditions persist in order to preserve eligibility for benefits. Polley v. Gopher Bearing Company, 478 N.W.2d 775 (Minn. App. 1991). Claimants are not required to give notice of an intention to quit due to intolerable, detrimental or unsafe working environments if the employer had or should have had reasonable knowledge of the condition. Hy-Vee v. Employment Appeal Board, 710 N.W.2d 1 (Iowa 2000).

In this matter the claimant did not give the employer notice that she would leave her employment if the numerous areas of concern had by the claimant were not resolved. The

claimant, however, had been in repeated contact with her regional manager and the company's engineering department and the administrative law judge concludes that the company had been given reasonable notice that the claimant's work requirements were becoming intolerable. The company was aware that the facility had not had a manager or construction manager for an extended period of time and the claimant was being required to perform numerous duties which included fielding numerous complaints from company customers. The administrative law judge thus concludes that the employer had or should have had reasonable knowledge of the claimant's intolerable or detrimental working environment. The employer did not have notice, however, of some of the claimant's areas of dissatisfaction which included the allegation that the employer deleted working hours because the claimant had intentionally not brought these matters to the attention of management.

In this matter Ms. Sander did not elect to leave her employment until August 2, 2011, after the assistance promised by the company had arrived. Ms. Sander was aware that the company had hired a facility manager and knew or should have known that the new manager would be responsible for handling numerous aspects of the claimant's duties that she found to be disdainful. Although the administrative law judge is mindful that the claimant did not believe that the new manager was fully trained or fully capable of performing his job duties, the administrative law judge nevertheless concludes that the employer had made a reasonable accommodation to the claimant's work needs by selecting and hiring an experienced individual to manage the company's Fairfield, Iowa location.

The administrative law judge concludes based upon the evidence in the record that Ms. Sander elected to leave her employment on August 2, 2011, the day after the new manager had been hired because she had been criticized by a corporate individual for the manner in which she had performed a portion of her duties. There has been no showing that the criticism was unreasonable or non-work-related nor had there been a showing that the criticism jeopardized the claimant's employment with the company.

The administrative law judge thus concludes that while the claimant's reasons for leaving employment on August 2, 2011 may have been good-cause reasons from her personal viewpoint, they were not good-cause reasons attributable to the employer at that time and therefore disqualifying under the provision of the Iowa Employment Security Law.

DECISION:

The representative's decision dated August 22, 2011, 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.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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