

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BARBARA M LONCARICH
Claimant

APPEAL NO. 11A-UI-08072 -VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

QUAD CITY SALVAGE AUCTION INC
Employer

**OC:05/22/11
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a decision of a representative dated June 14, 2011, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on August 24, 2011. Claimant participated. The claimant was represented by Adam Blank, attorney at law. Employer participated by Annette Snyder, outsourced human resources consultant. The record consists of the testimony of Barbara Loncarich; the testimony of Annette Snyder; and Employer's Exhibits 1-39.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer purchases damaged vehicles from insurance companies and in turn sells those vehicles to salvage companies. The claimant was hired on August 27, 2008, as a full-time title clerk. The claimant's last day of work was March 23, 2011. She gave written notice of her intent to resign on March 9, 2011.

When the claimant was initially hired, she was told that she would work 40 hours per week and that there might be overtime, particularly in the winter. The claimant did work overtime hours in 2008 and 2009. In September 2010, the employer purchased another company called Salvage Direct. The merging of the two companies led to many changes. Two experienced title clerks who worked with the claimant were transferred elsewhere. The claimant was the only experienced title clerk still working in her department. Temporary employees were hired but there was a shortage of equipment. The claimant also had to train these temporary employees. Several of the temporary employees were unsatisfactory and were let go after a short period of time. The claimant was familiar with title work in Iowa, Illinois and Missouri. The merger brought business from other states, with which the claimant was unfamiliar. The title work that the claimant usually did was transferred to other parts of the company and the claimant frequently

had to correct mistakes. The workload increased to the point where mandatory overtime was required every Monday through Friday and every Saturday. The claimant was averaging 58 hours of work per week.

Beginning in October 2010, management began pressuring the title clerks to “get caught up”. A request was made on October 27, 2010, to alternate weekends of mandatory overtime. A member of management named Marc refused until everyone is caught up. (Exhibit 4) On January 20, 2011, an email was sent telling employees that January 22, 2011, which was a Saturday, was 8 hours of mandatory overtime. (Exhibit 5) Marc sent an email on February 26, 2011, that the goal was to eliminate the exorbitant overtime and give employees back their weekends. (Exhibit 5) Overtime was halted on February 28, 2011, but mandatory overtime was reinstated on March 4, 2011, for March 5, 2011. Ten hour days and eight hour Saturdays were reinstated on March 9, 2011.

The claimant began having difficulty sleeping. She lost weight. She suffered from panic attacks before going to work. The claimant decided to give a two-week notice after being put back on mandatory overtime on March 9, 2011. Shortly after she gave her notice she saw her physician for a physical. She mentioned her stress related concerns to her physicians. Her physician told her that she should wait and see if these problems were alleviated when she stopped working.

REASONING AND CONCLUSIONS OF LAW:

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 24.26(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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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.

The evidence is uncontroverted that the claimant initiated the separation of employment. She gave a two-week notice to her employer on March 9, 2011, after she was once again placed on mandatory overtime. She was required to work ten hours on Monday through Friday and eight hours on Saturday. The employer's representative, Annette Snyder, agreed that the employees were being asked to work an exorbitant amount of overtime. The claimant felt she had no choice but to work mandatory overtime.

The employer not only required each employee to work 18 more hours per week, nearly every week, but employees got very little notice on when mandatory overtime might be required. Suggestions that there be alternate weekends for mandatory overtime were turned down. The claimant was forced to work with an ever changing number of temporary employees. There was not enough equipment for all of them. Equipment the claimant did have would be taken away. Frequent emails were sent concerning how many titles needed to be done and that no one could leave until all the work was completed.

The claimant credibly testified that she was severely stressed by this situation and began having trouble sleeping. She lost weight and suffered panic attacks. The most reasonable inference from the evidence is that the workplace was detrimental to the claimant. The administrative law judge concludes that the demands made on the claimant were unreasonable. The employer made a business decision to use inexperienced temporary employees and make permanent employees work excessive hours in order to meet the demands of its customers. Management seemed almost indifferent to the situation in which the claimant found herself. Necessary equipment was not purchased. The claimant has shown that she voluntarily quit her job with good cause attributable to the employer. The workplace was intolerable and detrimental. Benefits are allowed if the claimant is otherwise eligible.

DECISION:

The decision of the representative dated June 14, 2011, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs