

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ANTONIA M PIRILLO
Claimant

AMERICAN LEGION
Employer

APPEAL NO. 18A-UI-08621-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/08/18
Claimant: Appellant (1)

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated August 9, 2018, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on September 5, 2018. Claimant participated. Employer participated by Jake Blitch. Claimant's Exhibit A and Employer's Exhibits 1-2 were admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on June 29, 2018. Claimant voluntarily quit her employment on July 9, 2018 when she handed in her keys to the legion hall after being informed that she still had her job.

Claimant had informed others that she'd be leaving her job as bar manager should a new Commander be instilled. Claimant went on a vacation of an unspecified length when the new Commander was instilled on July 1, 2018. The new Commander contacted claimant numerous times while the claimant was on vacation after June 29, 2018, trying to find out if claimant was quitting, as he'd heard through the rumor mill. Claimant would not commit to her future plans, even when given the ultimatum by the Commander that she needed to tell of her plans or she would be assumed to have quit. Claimant kept insisting that she'd not given a statement of quit, and didn't know of her plans. The new Commander eventually sent out an email to claimant stating that since she hadn't stated her intention to stay within the five-day window, employer assumed claimant had quit.

Subsequent to this email, the old Commander emailed the claimant. There, claimant stated that she thought that only the Board of Directors could make employment decisions, not the Commander alone. The old Commander agreed with this assessment, and stated to claimant that she still had her job. The old Commander, speaking for the Board, asked claimant to share

her work schedule for the next week. Claimant did not respond to this text, and the next day she turned in her keys.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because she was asked what her work schedule would be for the next week.

Initially in this matter, the new Commander set out a manufactured time limit for the claimant to determine her intent to keep working or employer would consider this a quit. Claimant had vacation time to cover all days she missed. While it would have been a courtesy to inform employer in advance of a quit, it was not necessary to reiterate an intention to keep employment other than to show for scheduled shifts.

But the assessment doesn't end there. On July 9, 2018, the former Commander, who still held an ongoing position on the Board, contacted claimant. Claimant stated that she was told to turn in her keys, but that she thought it was a board decision to terminate employment. The board member agreed that only the Board could terminate, and that claimant still held employment. Employer asked claimant when she was returning to work. Claimant didn't respond, and the next day she turned in her keys. These actions show a person who still had her job, but chose to quit. The next phase of the evaluation is looking into whether claimant had "good cause" to quit her job.

Ordinarily "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code Section 96.2. *O'Brien v. EAB* 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the test of good faith." *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "Common sense and prudence must be exercised in evaluating all of the circumstances that led to an employee's quit in order to attribute the cause for the termination." *Id.* The facts or circumstances surrounding claimant's quit are that employer wanted to know where they stood in regards to claimant and her employment. Claimant refused to give a definitive statement. This, in and of itself does not constitute good cause to quit. Claimant's other argument was that she felt the new Commander was acting outside his authority. Even if this is correct, claimant knew that the right to terminate was not held by the Commander, but rather by the Board. The Board told claimant she was still employed. Claimant then quit.

DECISION:

The decision of the representative dated August 9, 2018, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn