IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

LINDA WILLIAMS
Claimant

PROFESSIONAL SECURITY CORP
Employer

APPEAL NO. 12A-UI-07318-JTT

ADMINISTRATIVE LAW JUDGE DECISION

OC: 05/27/12
Claimant: Respondent (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The employer filed a timely appeal from the June 18, 2012, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on July 19, 2012. Claimant Linda Williams participated. Richard Olson, president, represented the employer. Exhibits One through 16 were received into evidence.

ISSUE:

Whether Ms. Williams' voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Linda Williams was employed by Professional Security Corporation as the full-time Director of Accounting from 2007 until May 31, 2012, when she voluntarily quit. Ms. Williams' duties also included human resources responsibilities and information technology responsibilities.

Ms. Williams' quit was in response to an interaction with Mr. Olson on the morning of May 31, 2012. Mr. Olson went to Ms. Williams' office at a time when he was very angry with her for divulging information to an employee about the employer's business finances. Mr. Olson was angry with Ms. Williams for a number of things that had occurred in the workplace during his absence. When Mr. Olson got to Ms. Williams' office that morning, he yelled at her that she was the worst human resources manager he had had in 25 years, that he had never had anyone do so bad, and that, "You can't keep your goddamned mouth shut!" Mr. Olson's tirade was loud enough for others in the workplace to hear it. Ms. Williams responded, "I'll just go." Mr. Olson then exited Ms. Williams' office. Ms. Williams gathered her personal effects, including a stereo receiver, and exited the workplace. After Ms. Williams was out of the building, Mr. Olson gathered the other employees to announce that Ms. Williams has just resigned. Mr. Olson also announced to the staff at that time that Ms. Williams was the worst human resources manager he had ever had. This prompted further discussion with the gathered employees of negative interactions they had had with Ms. Williams.

The parties' contact after the interaction on the morning of May 31 was limited to wrapping up the relationship and did not include a discussion about Ms. Williams returning to the employment. On the afternoon of May 31, Mr. Olson sent Ms. Williams an e-mail message accepting her resignation and discussing the team meeting he had held after her departure.

REASONING AND CONCLUSIONS OF LAW:

A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, or failure to pass a probationary period. 871 IAC 24.1(113)(c). 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.

While Ms. Williams asserted at the time she filed her claim for benefits, and again at the appeal hearing, that she had been discharged, the weight of the evidence indicates that Ms. Williams voluntarily quit. The employer reasonably concluded that Ms. Williams had voluntarily quit. Ms. Williams' statement, "I'll just go," combined with her simultaneous removal of all of her personal effects from the workplace, indicated a voluntary quit.

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.

When a worker voluntarily quits employment in response to a reprimand, the quit is presumed to be without good cause attributable to the employer. See Iowa Admin. Code section 871 IAC 24.25(28).

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005).

An employer has the right to expect decency and civility from its employees and an employee's use of profanity or offensive language in a confrontational, disrespectful, or name-calling context may be recognized as misconduct disqualifying the employee from receipt of unemployment insurance benefits. Henecke v. Iowa Department of Job Service, 533 N.W.2d 573 (Iowa App. 1995). Use of foul language can alone be a sufficient ground for a misconduct disqualification for unemployment benefits. Warrell v. Iowa Dept. of Job Service, 356 N.W.2d 587 (Iowa Ct. App. 1984). An isolated incident of vulgarity can constitute misconduct and warrant disqualification from unemployment benefits, if it serves to undermine a superior's authority. Deever v. Hawkeye Window Cleaning, Inc. 447 N.W.2d 418 (Iowa Ct. App. 1989).

Just as an employer has the right to expect decency and civility, employees have similar rights and reasonable expectations. The employer sets the tone of the workplace and workplace relationships.

Had Mr. Olson used different, non-offensive and non-demeaning language, and a different, less enraged tone of voice when communicating his displeasure with Ms. Williams on May 31, this case would present a quit in response to a reprimand. However, the facts indicate there was more to the interaction than the run-of-the-mill reprimand. Mr. Olson's tone was threatening and loud enough to grab the attention of other staff. Mr. Olson's words were offensive and demeaning. Mr. Olson was not just reprimanding Ms. Williams. Instead, he was intentionally demeaning and humiliating her in a manner that few employees would endure and in a manner that alerted other staff in the workplace to the humiliation. Mr. Olson's intention to humiliate Ms. Williams carried over into his decision to discuss Ms. Williams' departure with the other staff that same morning. Ms. Williams did what a reasonable employee would do under such intolerable and detrimental circumstances and immediately quit the employment.

During the appeal hearing, Mr. Olson attempted to gloss over the issue of the offensive and demeaning words he chose to use while scolding Ms. Williams. Mr. Olson also argued that he was merely responding to Ms. Williams in the same negative manner she had employed with other employees. The weight of the evidence presents no conduct on the part of Ms. Williams equivalent to that demonstrated toward Ms. Williams on the morning of May 31. Even if Ms. Williams had employed such tactics with other employees, that would not make Mr. Olson's conduct toward Ms. Williams any less intolerable, detrimental or inappropriate.

Ms. Williams voluntarily quit the employment for good cause attributable to the employer. Accordingly, Ms. Williams is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to Ms. Williams.

DECISION:

The Agency representative's June 18, 2012, reference 01, decision is affirmed. The claimant quit the employment for good cause attributable to the employer based on intolerable and detrimental working conditions. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

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James E. Timberland
Administrative Law Judge

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Decision Dated and Mailed

jet/kjw