IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU

MARIA VAZQUEZ DE SANCHEZ Claimant **SWIFT PORK COMPANY** Employer	**APPEAL 18A-UI-12304-LJ-T** **ADMINISTRATIVE LAW JUDGE DECISION** **OC: 11/25/18** **Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 14, 2018 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit her employment for personal reasons. The parties were properly notified of the hearing. A telephonic hearing was held on January 10, 2019. The claimant, Maria Vazquez de Sanchez, participated. The employer, Swift Pork Company, did not register a telephone number at which to be reached and did not participate in the hearing. Spanish/English interpreter Beatrice from CTS Language Link provided interpretation services for the hearing.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time, most recently as a laborer, from approximately March 1999 until November 14, 2018, when she quit her employment. Claimant began having back pain caused by her employment approximately three years ago. This back pain coincided with the employer changing the way the production lines ran, requiring claimant to carry boxes from the line. Carrying the boxes caused claimant's back pain. She went to the doctor, and the doctor told her that she had a deviated disc on her spine. Claimant was given restrictions preventing her from bending forward or sideways. Claimant took the restrictions back to the employer, but the employer would not accommodate her restrictions. The employer told her, "I feel the same pain that you do," and they still made claimant work. Supervisors would also tell her that she had pain because of her age, and they would say, "If you cannot do the work, then you can go home." Claimant never told anyone that she was going to quit if they would not honor her work restriction because she felt bad and humiliated.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation was with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible.

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.

Iowa Admin. Code r. 871-24.26(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.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court recently concluded that, because the intent-to-quit requirement was added to rule 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.,* 710 N.W.2d 1 (Iowa 2005).

In this case, claimant provided unrefuted testimony that the employer refused to accommodate a work-related health issue and made insulting comments to her when she reminded management of her restriction. Among these comments, claimant's supervisors blamed claimant's health issue on her age, a protected characteristic under the Iowa Civil Rights Act. Claimant has established through credible, unrefuted testimony that she quit due to a detrimental work environment. Benefits are allowed, provided she is otherwise eligible.

DECISION:

The December 14, 2018 (reference 01) unemployment insurance decision is reversed. Claimant quit the employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible.

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Elizabeth A. Johnson
Administrative Law Judge

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Decision Dated and Mailed

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