

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DANIELLE BENNETT
Claimant

APPEAL 16A-UI-07822-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

GENESIS DEVELOPMENT
Employer

**OC: 06/19/16
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.25(22) – Personality Conflict with Supervisor
Iowa Admin. Code r. 871-24.25(28) – Quit After Reprimand

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 11, 2016, (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit because of a personality conflict with her supervisor. The parties were properly notified of the hearing. A telephone hearing was held on August 4, 2016. The claimant, Danielle Bennett, participated. The employer, Genesis Development, participated through Karen Rosengreen, director of services; and Melinda Austin, operations manager. Employer's Exhibit 1 through 8 were received and admitted into the record without objection.

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 as a crisis intervention specialist from March 14, 2016, until this employment ended on June 9, 2016, when she emailed Rosengreen her resignation, effective immediately. Continued work was available to claimant had she not resigned.

Claimant testified that she was resigning because Rosengreen was discriminating against her. Approximately one week prior to claimant's resignation, she met with Rosengreen to discuss multiple issues, including claimant's use of break time to pump breast milk, her work attire, and her attendance. Rosengreen informed claimant during the meeting that if she intended to use more than her two fifteen-minute breaks to pump, she needed to be using unpaid leave. Claimant indicated this was previously the policy, and she had followed this during her employment. Additionally, claimant has a larger body type and Rosengreen told her that she could not wear certain types of clothing, because these clothes were revealing and employees had complained. Claimant maintains other employees wore these same items, and she believes that only one person objected to her clothing.

Finally, during this meeting, Rosengreen issued claimant a verbal warning for her attendance. Claimant had been late for the majority of her shifts since starting her work. She was told she needed to arrive between five and ten minutes early, as she needed to be present for the count so she could pass medications during her shift. The employer maintains an employee handbook and holds an orientation for new employees. Both of these resources mention the human resources department. Rosengreen testified that HR Director Emily Herron, who works out of the employer's Jefferson office, was available if claimant had any issues or complaints.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from employment was without good cause attributable to her former employer. Benefits are withheld.

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. 871-24.25(22) provides:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

...

(22) The claimant left because of a personality conflict with the supervisor.

...

(28) The claimant left after being reprimanded.

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). Here, claimant resigned after her employer spoke to her about her work attire and asked her to keep her paid breaks within fifteen minutes. The average employee in claimant's situation would not find it reasonable to quit her employment. If claimant objected to Rosengreen's comments, she could have taken steps to remedy the situation and retain her employment. Claimant received a copy of the employee handbook and could have requested to speak with human resources to address any concerns she had regarding her access to adequate pumping time.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). Here, claimant submitted a resignation letter to Rosengreen. She never returned to employment after that. Claimant's decision to leave her employment because she disliked the comments Rosengreen made to her about her work attire was not for a good-cause reason attributable to her employer. Benefits are withheld.

DECISION:

The July 11, 2016, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Elizabeth Johnson
Administrative Law Judge

Decision Dated and Mailed

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