

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

LJILJANA VUJICA

Claimant

APPEAL NO. 14A-UI-07007-B

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS CORP

Employer

OC: 06/15/14

Claimant: Appellant (2)

Iowa Code § 96.5-1 – Voluntary Quit
871 IAC 26.7(17A,96) – Recusal

STATEMENT OF THE CASE:

Ljiljana Vujica (claimant) appealed an unemployment insurance decision dated July 1, 2014 (reference 01) which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Cargill Meat Solutions Corporation (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a hearing was held in Des Moines, Iowa on August 25, 2014. The claimant participated in the hearing with Attorney Phil Miller. The employer was represented by Attorney Nicholas Pellegrin but provided no witnesses. Employer's Exhibits One through Three and Claimant's Exhibits A and B were admitted into evidence.

The claimant's attorney filed a motion for recusal of the administrative law judge and all Iowa Workforce administrative law judges because the administrative process and procedures may be tainted and under undue influence from its Director and politics. The motion was denied.

ISSUE:

The issue is whether the claimant voluntarily quit her employment with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked as a full-time production worker from March 22, 1999 through June 16, 2014 when she voluntarily quit due to intolerable work conditions. She sustained a work-related injury to her back and her upper right shoulder on July 29, 2013. She indicated she has problems when she does "Burger King", which includes working with 15 pounds of meat in fast, repetitive motions.

The claimant received medical treatment through Workers' Compensation and was last evaluated on October 2, 2013. Dr. Gregory Clem determined the claimant "should be considered at MMI and should not have any disability as a result of this. If she has a resurgence of symptoms, we would be happy to see her back." Although the doctor said her right periscapular pain was much improved, it was only 50 percent better subjectively.

The claimant's supervisor either disliked her or had an issue with her and he made it impossible for her to continue working there. Before she was even done with physical therapy, the supervisor showed up at her physical therapy appointment. Additionally, he became angry when she returned from treatment but was also angry when she asked for anything else, even if it was only to go to the bathroom. When the claimant asked him something, he initially ignored her and walked behind some equipment so it would appear as if he did not hear her.

Consequently, the claimant continued working with shoulder pain but without obtaining further medical treatment. She asked the nurse when she was going to get called back for treatment but was too intimidated to say anything more. The supervisor continued with his mistreatment of the claimant. He made angry faces when she spoke and he stopped her machine if she had to leave when he could have easily put someone else in her place. Most recently, the claimant asked him something and saw him walk behind a machine when she heard him say, "Fuck Lillianna!" The claimant's last day of work was June 11, 2014 and she called in ill the next two workdays because her shoulder hurt so badly. She quit on the following Monday.

REASONING AND CONCLUSIONS OF LAW:

The claimant's attorney submitted a Motion for Recusal and Appointment of an Outside Administrative Law Judge before the hearing began on August 25, 2014. When the presiding officer knows of information which might reasonably be deemed a basis for recusal but decides recusal is unnecessary, the relevant information shall be submitted with the record along with a statement of the reasons for declining recusal. 871 IAC 26.7(3). While the claimant's attorney may have valid concerns about the politicization of the Agency and the undue influence of the Director of this Agency, there are no allegations about improper decisions made by the judges themselves. The parties are entitled to a fair and impartial hearing and a decision made without regard to outside influences, which the administrative law judge does not find to be at risk.

The substantive issue to be determined is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

The claimant quit on June 16, 2014 due to intolerable and detrimental work conditions. 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). Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code § 96.2. *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. Iowa Dep't 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 element of good faith." *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986).

The working conditions caused by her supervisor were such that it prevented the claimant from obtaining the medical care that she needed. Her testimony was not disputed since the employer offered no witnesses. It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has satisfied that burden and benefits are allowed.

DECISION:

The unemployment insurance decision dated July 1, 2014 (reference 01) is reversed. The claimant voluntarily quit her employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/can