

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LATANZA L ROBERTS

Claimant

APPEAL 16A-UI-07091-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

QPS EMPLOYMENT GROUP INC

Employer

OC: 06/05/16

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 23, 2016, (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit work by failing to report to work for three days in a row and failing to report the reason for her absence. The parties were properly notified of the hearing. A telephone hearing was held on July 14, 2016. The claimant, LaTanza L. Roberts, participated. The employer, QPS Employment Group, Inc., participated through Jordan Hohensee, placement coordinator II; and Rhonda Hefter, HR manager. Employer's Exhibits 1 and 2 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 temporary employee from March 19, 2015, until this employment ended on May 20, 2016, when she quit.

Claimant last reported to work on May 13, 2016. She had a family emergency that day. Claimant believes she left a message informing the employer about this emergency that day, but she is not sure. On May 16, the employer received a telephone call from claimant, who reported that she would not be at work that day due to a family emergency. Claimant initially stated she anticipated returning to work the following day. Later that afternoon, claimant called and left a message stating she would not be returning until May 19, 2016. The employer noted this message in its electronic system.

Claimant testified that she left messages on May 17 and 18, inquiring about her employment status. She testified she spoke to Hohensee on May 19, asking why no one had called her back to let her know her employment status. Hohensee had no recollection or notes of any direct

conversation he had with claimant related to this absence. Claimant never reported back to work on or after May 19, 2016. The employer interpreted claimant's failure to report back to work as claimant quitting her employment.

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 the employer. Benefits are withheld.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

After assessing the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge finds the employer's witnesses more credible than claimant. The administrative law judge believes Hohensee's testimony that any messages claimant left for the employer would have been noted in the employer's electronic system. The administrative law judge finds claimant had no contact with the employer after she left a message on May 16, 2016.

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.

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 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 has not presented any evidence that she had good cause to quit her employment. Claimant contends she was discharged, but there is no credible evidence in the record that supports that claim. Claimant's leaving the employment without notice or reason, and the failure to return to work renders the separation job abandonment without good cause attributable to the employer. Benefits are withheld.

DECISION:

The June 23, 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

lj/pjs