

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUDI JOHNSON

Claimant

APPEAL NO: 12A-UI-08724-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

DECKER TRUCK LINE INC

Employer

OC: 06-17-12

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 12, 2012, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on August 14, 2012 and continued on September 19, 2012. The claimant participated in the hearing. Brenda McNealey, Director of Human Resources; Joanne Kramer, Department Administrator for Human Resources and Safety; and Jenny Smith, Employer's Attorney; participated in the hearing on behalf of the employer. Employer's Exhibits One, Four and Six through Nine were admitted into evidence.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time claims processor for Decker Truck Line from October 11, 2010 to June 22, 2012. The claimant sent the employer an email June 22, 2012, stating she was resigning effective immediately. On January 26, 2012, the claimant had an incident with a driver. The driver was short several cases of meat to be delivered to Tyson. The claimant followed procedure in asking the driver if the truck was sealed and he said it was not. The claimant initiated a conference call with Tyson, the driver and herself, and was attempting to get information from the driver when he became belligerent and continued to change his version of what happened to the product. At the end of the call the driver stated he had recorded the call and was coming after the claimant. He had told her he did two tours of duty in Iraq and the claimant was scared even though the driver was located out of state. She reported the incident to her supervisor and put it in writing but was not aware of any steps the employer took to resolve the situation. Consequently, the claimant notified Director of Human Resources Brenda McNealey of the incident and was instructed to put it in an email and the claimant did so. The claimant did not know of anything the employer was doing about the situation so she contacted local law enforcement officials. A few days later the claimant was called into the office and told the employer knew the claimant was complaining the employer was not doing anything about

the situation. The employer told the claimant it was going to meet with the driver and would let her know. Shortly thereafter another employee received a cargo claim from the driver and he asked who he spoke with before and that co-worker gave the driver the claimant's name. The driver then called the claimant and said he was coming to Fort Dodge and coming after the claimant. The claimant asked to be notified if the driver was coming to Fort Dodge and the employer stated it would do so but approximately one week later the claimant saw the driver in the office as she was on her way to the restroom. They did not have any interaction but the claimant made a written complaint about the situation even though the department and restroom areas are secure and require a badge to enter and the driver did not know who the claimant was or what she looked like. On February 3, 2012, the claimant received a written warning for "rude and disrespectful treatment of drivers; appropriate follow through; following the chain of command; hand off calls that do not pertain to you; and stop creating drama" (Employer's Exhibit One). The warning detailed dates and incidents where the claimant failed to meet the employer's expectations in each of the areas outlined above. The claimant's performance improved for a brief period of time but then slowly declined over the course of the next five months when she fell further and further behind in her work and made complaints about her supervisor not working in the manner the claimant believed she should. On June 18, 2012, the claimant was called into a meeting with Ms. McNealey and Department Administrator for Human Resources and Safety Joanne Kramer. They told the claimant that her job performance had not improved since the February 3, 2012, written warning and the employer had "noticed significant deterioration since the Director of Safety position has been vacated" (Employer's Exhibit Four). The written warning cited "appropriate follow through; following the chain of command; not being available in your work area; second job interference; and overreacting/creating drama" (Employer's Exhibit Four). The warning gave detailed examples and dates of each behavior indicated in the top portion of the warning (Employer's Exhibit Four). The claimant was then suspended June 19, 20 and 21, 2012, and the warning notified her that her job was indeed in jeopardy if the employer did not see an "immediate change in your behavior" (Employer's Exhibit Four). The claimant believed that after the situation with the driver in January 2012 she could not do anything to please the employer and the employer wanted to end her employment relationship although her work performance issues dated back to a November 2, 2011, verbal warning about the issues further discussed in the February 3, 2012, written warning. At 2:28 a.m. June 22, 2012, the claimant emailed the employer she was resigning effective immediately and cited a hostile work environment as the reason (Employer's Exhibit Six)

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the

employer. Iowa Code section 96.6-2. "Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (Florida App. 1973). While the driver's behavior toward the claimant January 26, 2012, was inappropriate, unprofessional and threatening, the claimant participated inappropriately and unprofessionally as well, but did not lodge any threats against the driver. The claimant should have been advised of what action, if any, was taken regarding that situation and if the employer found the driver did threaten the claimant she should have at least been told any time that driver would be coming to the employer's Fort Dodge location, even though most of that building and the claimant's department was secure. Although the claimant attributes all of her problems with the employer to that one incident, the employer's evidence establishes that was not the case. The claimant received a documented verbal warning regarding performance issues November 2, 2011, nearly three months prior to the incident with the driver. She received a written warning detailing her performance issues February 3, 2012, and while her performance improved briefly she could not sustain the improvement. The claimant was far behind in her work, which was an issue, but her attitude, behavior and specific actions were more problematic for the employer and also impacted morale and other employees. The claimant was given over four months to show improvement before the employer issued her another written warning, this time accompanied by a three-day suspension. The claimant remained upset about the incident with the driver and that may have impacted her performance but she was still responsible for her actions and behaviors and general work performance. Instead, even though her performance was lacking, she blamed the employer for her eventual decision to resign her position with the employer. Other than the incident with the driver, which occurred nearly five months prior to her resignation, the claimant has not established a hostile workplace on the part of the employer. Instead, the evidence establishes the claimant voluntarily quit her job due to dissatisfaction with the work environment. The claimant has not met her burden of proving her leaving was for good cause attributable to the employer as that term is defined by Iowa law. Therefore, benefits must be denied.

DECISION:

The July 12, 2012, reference 01, decision is affirmed. The claimant voluntarily left her 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css