

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JESSICA L BALL
Claimant

APPEAL NO: 20A-UI-10771-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BLACK HAWK NURSING AND REHABILITA
Employer

OC: 03/08/20
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from the August 25, 2020, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on October 21, 2020. The claimant participated in the hearing. Christy Harris, Director of Nursing and Tami Martin, Director of Human Resources, participated in the hearing on behalf of the employer.

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 LPN for Black Hawk Nursing and Rehabilitation from March 19, 2019 to March 6, 2020. She voluntarily left her employment because the Administrator Sheri Ames was indirectly providing information about the claimant and her schedule to the claimant's abusive ex-husband.

The claimant learned Ms. Ames was engaged to her ex-husband's boss. The claimant's ex-husband was very abusive and Ms. Ames told her fiancé when the claimant was working and he in turn told her ex-husband. Her ex-husband used the information to track the claimant's whereabouts and see what she was doing and where she was at any given time. He would drive by the workplace and if he did not see the claimant's car he would text her and ask why she was not there. If the claimant called off work her ex-husband would ask why she was not working. He used the information from Ms. Ames and her fiancé to aid in his stalking of the claimant. The claimant learned of their connection when Ms. Ames spoke to the claimant about her upcoming wedding and explained she was not going to invite the claimant because her ex-husband worked for her fiancé and he would be at the wedding. The claimant confronted her ex-husband about where he was getting his information and he admitted his boss was giving it to him.

The claimant was afraid and made plans to move away for the safety of herself and her children. She packed all of her belongings and as she was ready to leave March 6, 2020, she called the employer and stated she was voluntarily quitting her job effective immediately.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment with good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

The law presumes a claimant has left employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). It would be reasonable for the employee to inform the employer about the conditions the employee believes are intolerable or detrimental and to have the employee notify the employer that she intends to quit employment unless the conditions are corrected. This would allow the employer a chance to correct those conditions before a quit would occur. However, the Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. *Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant*, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). 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). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d (Iowa 2005).

The claimant reasonably believed Ms. Ames was providing her fiancé with details about the claimant's schedule and he shared that information with the claimant's abusive ex-husband who used the information when stalking the claimant. The claimant's ex-husband told her that is how he was obtaining the information about the claimant. The claimant did not notify the employer of her reasons for leaving because she feared Ms. Ames would tell her fiancé who would in turn tell the claimant's ex-husband from whom the claimant was trying to escape. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits.

DECISION:

The August 25, 2020, reference 01, decision is affirmed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.



Julie Elder
Administrative Law Judge

October 26, 2020
Decision Dated and Mailed

je/sam