

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ROGENIA SWEENEY
Claimant

QHC FORT DODGE VILLA LLC
Employer

APPEAL NO. 14A-UI-03344-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/23/14
Claimant: Appellant (2)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Rogenia Sweeney (claimant) appealed an unemployment insurance decision dated March 18, 2014, (reference 01), which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Fort Dodge Villa Care Center (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 21, 2014. The claimant participated in the hearing. The employer participated through Debra Koenig, Administrator and Nicki Studyvin, Dietary Manager. Employer Exhibit's One was admitted into evidence.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time cook from February 24, 2014, through February 25, 2014, when she voluntarily quit because the trainer talked filthy, cussed and swore at people. When the claimant was hired, she was advised that the trainer was from Poland and she sometimes has communication difficulties. However, the trainer repeatedly used the "F" word. She asked the claimant if she had her stuff ready and the claimant did not know what she was talking about so the trainer yelled, "Your fucking trays!" She then told the claimant, "You're fucking stupid...you're going to be just like the rest of them." The trainer talked negatively about the other employees and managers and every other word she used was the "F" word. The supervisor was in her office right off the kitchen so the claimant believed that type of inappropriate conduct was acceptable. The claimant left at lunch on the second day without comment and never returned. The employer called her and the claimant explained why she left but was not willing to return.

REASONING AND CONCLUSIONS OF LAW:

The issue 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 voluntarily quit on February 25, 2014, due to intolerable 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). 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).

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). "[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.*

The evidence provided by the claimant does rise to an intolerable or detrimental work environment. It does appear the employer was aware of the trainer's conduct and condoned it. The claimant has met her burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Benefits are allowed.

The employer is not a base period employer and its account is not subject to any charges during the claimant's current benefit year. If the claimant establishes a subsequent benefit year, the wage credits she earned from February 24, 2014, through February 25, 2014, would be subject to charge since the claimant quit her employment with good cause attributable to the employer.

DECISION:

The unemployment insurance decision dated March 18, 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/pjs