

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ALYSSA M DENNING

Claimant

APPEAL 20A-UI-06530-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY

Employer

OC: 05/24/20

Claimant: Respondent (1)

Iowa Code § 96.5(1) – Voluntary Quitting

Iowa Admin. Code 871-24.26(4) – Intolerable Work Conditions

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated June 10, 2020, (reference 01) that held claimant eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on July 24, 2020. Claimant participated. Employer participated by Erica Determan, Store Manager.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on May 20, 2020. Claimant did not come back to work on that date because her work environment had become intolerable.

Claimant began working for employer as a full-time employee on September 22, 2015. In April 2020 claimant was promoted to the food service leader. Claimant was given new responsibilities and she became very stressed about her new work assignment. Claimant sought medical treatment, and she met with a psychologist. Claimant followed the recommendations of her health care providers, and she tried to do her job to the best of her ability.

Claimant's job became continuously more difficult in May 2020. The kitchen was short staffed by 50% and she was trying to make up for the staff shortages by doing extra work. Claimant voiced her concerns to employer, but employer did not hire more help. Claimant felt responsible for her department not being able to keep up with the extra work. Claimant was not able to deal with the extra duties, and the constant reminders that she was failing in her new position.

Claimant met with her psychologist on or about May 18, 2020. Claimant was told that she should leave her employment and seek other work because of her mental health issues.

Claimant informed employer that she had to leave her job on May 20, 2020 because her employment had become intolerable.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because her employment had become intolerable.

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.

Iowa Admin. Code r. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

- (4) The claimant left due to intolerable or detrimental working conditions.

Iowa Admin. Code r. 871-24.26(3) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

- (3) The claimant left due to unlawful working conditions.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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).

Individuals who leave their employment due to disparate treatment are considered to have left work due to intolerable or detrimental working conditions and their leaving is deemed to be for good cause attributable to the employer. The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Dep't of Job Serv.*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Emp't Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993).

A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court concluded that, because the intent-to-quit requirement was added to Iowa Admin. Code r. 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Claimant left the employment because her work environment was intolerable, her separation from employment was for a good-cause reason attributable to the employer. Benefits are allowed.

DECISION:

The decision of the representative dated June 10, 2020, reference 01, is affirmed. Unemployment insurance benefits are allowed provided claimant is otherwise eligible.



Duane L. Golden
Administrative Law Judge

August 3, 2020
Decision Dated and Mailed

dlg/scn