

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAIME M COX
Claimant

APPEAL NO. 14A-UI-09422-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ROBERT KELLOGG RESTORATION LLC
Employer

OC: 08/10/14
Claimant: Respondent (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The employer filed a timely appeal from the September 2, 2014, reference 02, decision that allowed benefits to the claimant provided she was otherwise eligible and that held the employer's account could be charged for benefits. After due notice was issued, a hearing was held on October 23, 2014. Claimant participated. Brian Burkle represented the employer. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant and received Exhibits A through I into evidence. The administrative law judge took official notice of the fact-finding materials.

ISSUE:

Whether the claimant's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Jamie Cox was employed by Robert Kellogg Restoration, L.L.C., doing business as ServePro, as a full-time office manager from 2007 until August 6, 2014, when she quit due to the actions of her immediate supervisor, Brian Burkle. Mr. Burkle was a co-owner of the company and ran the employer's Grimes location. The other owners, Robert and Barb Kellogg, were located in Cedar Rapids. The relationship between Mr. Burkle and Ms. Cox grew to be quite toxic.

While Mr. Burkle viewed Ms. Cox as competent and a valuable employee, he routinely acted in a manner that indicated otherwise. Mr. Burkle regularly called Ms. Cox stupid or an idiot. Mr. Burkle regularly employed vulgar language when interacting with Ms. Cox. On an occasion, months before the separation, when Ms. Cox blew up in the workplace and employed similar language, Mr. Burkle recorded the incident for later use. Mr. Burkle would micromanage Ms. Cox's work. On one occasion, Ms. Cox went to the employer's warehouse to take a smoke break after assigning work to the new office clerk and Mr. Burkle followed Ms. Cox to the warehouse for the purpose of chastising her for not constantly supervising the clerk. Mr. Burkle accused Ms. Cox of trying to run the clerk off. On another occasion, when Ms. Cox closed the door to her office so that she could focus on preparing a daily report, Mr. Burkle chastised Ms. Cox for not being sufficiently available to the front office clerk and other staff. Ms. Cox had

repeatedly submitted a written resignation and returned after speaking with the other owners and getting assurances that the situation with Mr. Burkle would improve.

The final incident that triggered the separation occurred on August 6, 2014, when Ms. Cox met with Mr. Burkle in his office to encourage him to end the work assignment of the temp-to-hire clerk who was working for ServePro through a temp agency. Despite Ms. Cox's ongoing concerns that the clerk was not picking up on the work, Mr. Burkle elected to keep the clerk. When Ms. Cox protested on August 6, 2014, Mr. Burkle walked out of his office and told the clerk "Kayla, you have to go. Jaime doesn't like you. Why don't you tell her, Jaime, why you don't like her." Ms. Cox collected her things and quit on the spot. Ms. Cox's quit was preceded by another office employee's quit and the reassignment of that work to Ms. Cox.

REASONING AND CONCLUSIONS OF LAW:

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 requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

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 evidence in the record indicates that while neither party was blameless in the devolution of the relationship, the employer created a toxic atmosphere that prompted Ms. Cox to leave the employment. Ms. Cox quit the employment for good cause attributable to the employer. Accordingly, Ms. Cox is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits.

DECISION:

The September 2, 2014, reference 02, decision is affirmed. The claimant quit the employment for good cause attributable to the employer. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css