

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

ROBIN LIVINGOOD  
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CHARLES CITY IA 50616

PEOPLES SAVINGS BANK  
PO BOX 357  
328 MAIN ST  
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Appeal Number: 05A-UI-11291-BT  
OC: 10/09/05 R: 02  
Claimant: Appellant (2)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Robin Livingood (claimant) appealed an unemployment insurance decision dated October 27, 2005, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Peoples Savings Bank (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 November 17, 2005. The claimant participated in the hearing. The employer participated through Joe Johnson, President.

## 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 part-time teller/bookkeeper from August 27, 2003 through October 4, 2005, when she voluntarily quit her employment. Before the claimant accepted the job, Charlie, who is a loan officer, told her one of the advantages in working for the bank is that employees do not have to pay a loan origination fee. The claimant accepted the job and eventually transferred a loan to the employer. She and her husband were charged the origination fee and the claimant complained about it. The charges were eventually waived but Charlie told her that he never made any promise like that to her. The claimant's credibility was put into question from that time. Approximately one year later, Charlie sat with the claimant in the lunchroom while on break. Charlie wanted to know about the claimant's husband's job and whether or not he got in trouble. The claimant knew nothing about which he was speaking and Charlie proceeded to provide confidential information to her that had come from her husband's company. That night, the claimant asked her husband about it and he wanted to know where she got such confidential information. The claimant told her husband and it was later determined that someone named Matt had given Charlie the information. The claimant's husband reported the information to his employer and Matt was disciplined. Subsequently, Charlie approached the claimant and was livid that she had "betrayed" his "confidence." The claimant reminded him that it was he who was spreading gossip but that did not make any difference. After that exchange, whenever the claimant assisted a customer who was friends with Charlie, she was called to his office and told she had to keep the information confidential. The claimant spoke to a customer about something she had seen in the paper and she was called on it for breaching confidentiality.

The employer was being purchased by another bank and approximately two weeks prior to her separation, the claimant was involved in a meeting with the human resources from the purchasing company. The claimant asked a question as to when they would get their evaluations and the human resources representative stated that Charlie would need to answer that question and she would ask Charlie. Charlie shortly arrived at the meeting and told the claimant that no evaluations were going to be given by the purchasing company. He told the claimant that she was on shaky ground and that they had issues with her about maintaining confidentiality. Charlie went on to discuss a shortage that had occurred and implied that the claimant was responsible. On September 27, 2005, the claimant was trying to assist a customer with filling out forms that had to be done because of the recent purchase. The claimant did not know exactly how to fill out the form so she asked Charlie and another co-worker for assistance. Neither one knew how to fill out the forms so the claimant laid it aside and the customer was going to return later in the day. In the meantime, the claimant emailed the operations person at the purchasing bank with the questions she had. When she returned from lunch, she received both an email from the purchasing bank employee and her supervisor. Her supervisor chastised the claimant for contacting the other bank and told her that they did not want to look "stupid." On September 30, 2005, the claimant asked her supervisor where she needed to put the forms and the supervisor told her to put them where she thought they should be. Both said some comments back and forth when her supervisor received a telephone call so the claimant returned to work. After the phone call, her supervisor told the claimant to come with her and she had the claimant wait outside Charlie's office while the supervisor went inside to talk with Charlie. The supervisor and Charlie then went into the president's office and called the claimant in there. Charlie told her she was going to receive a very stern written warning and he said if she did not like it, "We'll talk about your options."

The claimant went back to work and later called the president to see if she could talk to him. The president told her that was fine but it would have to wait until Tuesday, October 4, 2005. Charlie was being promoted to office manager and the president was going to retire in the near future. The claimant considered over the weekend what to do and decided it would depend upon the written warning. She prepared a resignation form just in case she needed it. On Tuesday, the president called her into his office but she had to finish what she was doing. It was taking longer than usual so she asked Sandy, with whom she was working, if Sandy could get someone else to help her. Sandy told the claimant that she too was to attend the meeting. They both went to the president's office and the claimant wanted to know why Sandy had to be there. The employer said that he needed a witness and while the claimant had no problems with Sandy being there, she could not understand why the employer needed a "witness." The employer had the warning prepared but did not disclose that to the claimant. The claimant realized that she would never receive fair treatment with Charlie at the helm and gave the employer her resignation notice. The employer told her that she did not need to work the final two weeks but would be paid for it anyway. The employer then made a statement like "You wouldn't have lasted long with Charlie anyway." The employer does not remember exactly what he said but admits it could have been something like that.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 871 IAC 24.25 provides that, 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. 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). The claimant demonstrated her intent to quit and acted to carry it out by giving her written resignation notice.

The claimant quit due to intolerable and detrimental working conditions. 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). In order to show good cause for leaving employment based on intolerable or detrimental working conditions, an employee is required to take the reasonable step of informing the employer about the conditions the employee believes are intolerable or detrimental and that she intends to quit unless the conditions are corrected. The employer must be allowed the chance to correct those conditions before the employee takes the drastic step of quitting employment.

It was clear to all that the claimant could not be successful in her employment with the employer after Charlie had taken his promotion. The president of the company even told her as much. She had no credibility with the employer and the president even testified that the only reason he knew that someone would not like a witness to be in the room is because that person is "lying." The claimant did not give advance notice that she intended to quit but in the case herein, it would not have made any difference. The president of the company appeared to feel like he was being imposed upon because he had to spend an hour on the telephone for the hearing. The claimant wanted to explain more but the employer asked if he could disconnect so the claimant offered no more.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code §96.6-2. The Administrative Law Judge finds the claimant's working conditions were detrimental and intolerable. The claimant has satisfied her burden. Benefits are allowed.

DECISION:

The unemployment insurance decision dated October 27, 2005, 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.

sdb/tjc