

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ANGIE CAMLIN
Claimant

ADVANCED SYSTEMS INC
Employer

APPEAL 16A-UI-00421-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/13/15
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 4, 2016, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 2, 2016. Claimant participated. Employer participated through representative, Thomas Kuiper and vice-president of service, Don Hinckle.

ISSUE:

Did claimant voluntarily leave the employment with good cause attributable to employer or did employer discharge claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a dispatcher in the Waterloo office from November 13, 2012, and was separated from employment on December 11, 2015.

Claimant told the employer that she wanted to move to the Davenport office during the summer. Mr. Hinckle initially told claimant no because of technology constraints. In October 2015, claimant told Mr. Hinckle she had an offer to sell her house and that she was going to put an offer to buy a house in the Quad Cities. Claimant told Mr. Hinckle that she was moving to the Quad Cities. Claimant wanted to continue to work for the employer. Mr. Hinckle told claimant that he would look into IP phone systems and network capabilities of the Davenport office. Mr. Hinckle discovered that the network capabilities would not be an issue with some more equipment, but the phone system was going to be an issue. The Davenport office is a sales office and is not setup for a phone system. Mr. Hinckle never guaranteed claimant could try dispatching out of the Davenport office to see if it would work. Mr. Hinckle told claimant he would look into the technology issues to see if it was feasible. Mr. Hinckle was never able to get the phone system set up. Prior to December 11, 2015, Mr. Hinckle missed phone calls while he was traveling and that was not acceptable for business, which is why it was not going to work to dispatch from the Davenport office. On December 11, 2015, Mr. Hinckle spoke to claimant on

the phone. Mr. Hinckle told claimant that he could not get the Davenport office setup for dispatching. Mr. Hinckle did not tell claimant she was fired. Claimant did not ask to work out of the Waterloo office. Claimant would have been able to work out of the Waterloo office if she wanted too. There was work available for claimant out of the Waterloo office. Claimant had already moved to the Quad Cities by December 11, 2015.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer. Benefits are denied.

It is the duty of an administrative law judge and the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge, as the finder of fact, may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other evidence you believe; whether a witness has made inconsistent statements; the witness's conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996).

This administrative law judge assessed the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and used my own common sense and experience. This administrative law judge finds the employer's version of events to be more credible than claimant's recollection of those events.

Iowa Code § 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. 871-24.25(2) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(2) The claimant moved to a different locality.

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

is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). 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).

Claimant's argument that the employer was going to allow her the opportunity to work of the Davenport office is not persuasive. Claimant's argument that the employer discharged her is also not persuasive. Mr. Hinckle testified he only told claimant he would look into the feasibility of dispatching from the Davenport office. Mr. Hinckle also testified he never guaranteed claimant would be able to dispatch from the Davenport office. It is also noted that claimant had already made the decision to move to the Quad Cities, before discussing dispatching with Mr. Hinckle again. Mr. Hinckle never told claimant she was discharged and there was work available for claimant in the Waterloo office. While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The January 4, 2016, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/css