

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KARLA RUBY
Claimant

SDH EDUCATION WEST LLC
Employer

APPEAL NO. 14A-UI-10478-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/06/14
Claimant: Respondent (1)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

SDH Education West, LLC (employer) appealed an unemployment insurance decision dated September 29, 2014, (reference 01), which held that Karla Ruby (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 28, 2014. The claimant participated in the hearing. The employer participated through General Manager Casey Benton, Executive Chef Eric Totman, Hearings Representative Thomas Kuiper, and Employer Representative Judi Vilaylak.

ISSUE:

The issues are whether the claimant is disqualified for benefits, whether she was overpaid unemployment insurance benefits, whether she is responsible for repaying the overpayment and whether the employer's account is subject to charge.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a campus food service and the claimant was employed full-time as a retail manager from October 5, 1999, through August 27, 2014, when she voluntarily quit due to hostile work conditions. The employees are laid off during the summer months. In August 2013, Executive Chef Casey Benton became the general manager and Assistant Executive Chef Eric Totman became the executive chef.

The claimant found Mr. Totman difficult to work with but it did not become unbearable until she returned to work in July 2014. The claimant said he often made smart remarks like, "I'm going to be a bigger dick this year than last year." She said he told her that he was going to get her on "more psycho medicine" than she was already on and he stood over her harassing her when she was trying to work. If he did not see a recipe card when she was cooking something, he badgered her as to where it was and refused to listen to her explanation that she had the build card. Mr. Totman was the claimant's supervisor and she was required to go to him with questions. She asked him how much sauce should be put on a hamburger and instead of simply providing an answer, he grabbed a ladle and asked her if she wanted that much sauce

on her hamburger. The claimant decided she could no longer work with Mr. Totman and went to give a verbal resignation to General Manager Benton. She had never had problems with Mr. Benton and he talked her out of giving notice by stating that he would take care of things.

However, instead of getting better, things became worse because Mr. Totman refused to speak with the claimant and gave her the silent treatment for two weeks. She tried to make amends with him so they could work together and on August 18, 2014, she bought a Red Bull drink for him since he liked those. Mr. Totman told her, "I don't drink that shit!" The claimant decided she could not continue to work with Mr. Totman so she gave Mr. Benton her verbal resignation and followed it up with a written resignation on August 20, 2014.

The claimant filed a claim for unemployment insurance benefits effective July 6, 2014, and has received benefits after the separation from employment. Employer Representative Judi Vilaylak participated in the fact-finding interview on behalf of the employer.

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 quit on August 27, 2014, due to hostile work conditions and harassment at the work place. 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).

While the employer witnesses denied wrongdoing, the claimant's testimony was found to be more credible. The general manager denied the claimant had complained to him about the executive chef but the executive chef subsequently testified the general manager had counseled him about how he was treating the claimant. That would not have happened if the claimant had not initially complained. The executive chef also corroborated the claimant's testimony when he admitted she bought him a Red Bull even though he denied using profanity when refusing the drink. The claimant had worked in this job without any serious problems for over 14 years but the problems were severe enough to end her long-term employment.

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. Her testimony and actions appear reasonable. Consequently, she has satisfied her burden and benefits are allowed.

DECISION:

The unemployment insurance decision dated September 29, 2014, (reference 01), is affirmed. 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