

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

SCOTT M BLUME
Claimant

ROUSSELOT INC
Employer

APPEAL NO. 19A-UI-02811-B2

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/10/19
Claimant: Appellant (2)

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 26, 2019, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on April 26, 2019. Claimant participated. Employer participated by Tom Loch. Claimant's Exhibits A-B and Employer's Exhibits 1-2 were admitted into evidence.

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 March 4, 2019. Claimant voluntarily quit on that date as he believed that he was being consistently harassed by employer's supervisor.

Claimant worked as a grease plant chop operator for employer. Claimant worked for employer, a union shop, for over 30 years. During that time, claimant worked for a number of supervisors. Claimant had never filed a complaint against any of the supervisors until the last 5 years. In 2014 employees went on strike / were locked out by employer. There was animosity that remained as a result of the strike/ lockout after it had been settled. This animosity existed to such an extent that a hostile work environment complaint was filed in May, 2014 with the local union. Claimant stated that his supervisor was the main reason for this complaint.

Claimant stated that his supervisor's harassment continued in an on again - off again basis for years. Claimant sought to move away from this supervisor and changed duties and hours worked. Claimant did move back to a day shift and wanted to continue in that shift.

Employer stated that they were aware of the complaints many had against this supervisor. On January 7, 2019 there was an additional grievance filed against the supervisor. Said grievance included the specific details of an aggressive confrontation the supervisor had with claimant.

Employer responded to this grievance filing that they did not believe the supervisor created a hostile work environment, in spite of the supervisor's writing up every member of the shop within the previous six months. Employer did try to address concerns. Employer had the supervisor attend a Plan to Understand Self and Others class whereby the supervisor was hopefully going to learn. Claimant and employer's witness testified that the supervisor was making snide comments just days before claimant submitted his resignation. During a meeting with the human resources officer, the supervisor was mimicking the officer behind his back. To claimant, this meant that the supervisor was going to continue ignoring all attempts to change his behavior.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because his supervisor acted in a bullying and hostile manner towards claimant in spite of multiple attempts on the part of claimant to alert employer of the behavior.

Ordinarily "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code Section 96.2. *O'Brien v. EAB* 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the test of good faith." *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "Common sense and prudence must be exercised in evaluating all of the circumstances that led to an employee's quit in order to attribute the cause for the termination." *Id.* Whereas employer argues that they were going through procedures to have the supervisor's actions change, claimant endured these actions for five years. While the attitude periodically improved, again and again claimant had to endure the supervisor's aggressive and vicious behavior. Claimant needn't wait months of additional torment to see if his supervisor's attitude has changed once good cause had been established and reestablished. Of particular note to the administrative law judge was the fact that claimant had never filed a complaint against any other supervisor he'd encountered in thirty years on the job. Also of note was employer's choice not to provide either the supervisor or the general manager to testify for the hearing. The Iowa Supreme Court has ruled that if a party has the power to produce more explicit and direct evidence than it chooses to present, the administrative law judge may infer that evidence not presented would reveal deficiencies in the party's case. *Crosser v. Iowa Dep't of Pub. Safety*, 240 N.W.2d 682 (Iowa 1976).

Benefits are granted.

DECISION:

The decision of the representative dated March 26, 2019, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn