

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LUCRETIA GRIFFIN
Claimant

APPEAL NO: 12A-UI-10808-B

**ADMINISTRATIVE LAW JUDGE
DECISION**

MOSAIC
Employer

OC: 08/30/12
Claimant: Appellant (4)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Lucretia Griffin (claimant) appealed an unemployment insurance decision dated August 30, 2012, reference 01, which held that she was eligible for unemployment insurance benefits from the date she was discharged to the effective date of her resignation with Mosaic (employer). After hearing notices were mailed to the parties' last-known addresses of record, a hearing was held in Mason City, Iowa on October 15, 2012. The claimant participated in the hearing with former co-employee Jessica McFall. The employer failed to participate in the hearing, even though its representative had requested to participate by telephone with a witness present at the in-person hearing. Claimant's Exhibits A through K were admitted into evidence. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a full-time support staff team leader and certified med aide from May 8, 2008 through July 31, 2012. She put in her two-week written notice on July 30, 2012 and was discharged on the following day. The employer is a non-profit residential care facility for people with disabilities and the claimant assisted with the management of two six-person homes. The clients with whom she worked were male and ranged in age from 17 to 59. The claimant quit her employment due to an intolerable work environment that was directly caused by supervisor Denise Bennett.

Ms. Bennett's personal life consumed most of her time at the office and her job duties were then put on the claimant and other employees. She used the work computers to get on dating sites to meet men during the work day. She then constantly talked about the men she met and offered explicit details as to her sex life with these men. Ms. Bennett used her personal cell phone frequently during the work day and showed the claimant a picture of a naked black man

on June 18, 2012. The claimant testified that Ms. Bennett said that she would “hook up” with one of her male employees but for the fact that “his manhood wasn’t dark enough for her liking.”

On June 20, 2012, Ms. Bennett took a personal call at work and afterwards told the claimant it was a guy from Africa whom she met on a dating site. She talked about how this man ate with his fingers instead of silverware and that she would like to go to Africa but could not get a passport because she has a felony. Ms. Bennett then talked about sleeping with Anthony, Corey, and Bill, among others.

Co-worker Anjanay Chambliss provided a written statement which confirmed Ms. Bennett showed “inappropriate pictures or texts from naked men or sexual conversations from her personnel cell to staff.” In front of others, Ms. Bennett asked Ms. Chambliss “to make out with her in front of her gentleman friend to arouse him.” Co-worker Jordan Cook provided a written statement which said Ms. Bennett “showed people naked men on her phone. She talks about sex around clients and co-workers...” He also wrote that Ms. Bennett has told people, “They’re not black enough for her pleasure.”

Ms. Bennett used the employer’s vehicle for her personal use for a two-week period when her own vehicle was not working. She used company money to buy pop and food for her office. Ms. Chambliss reported that Ms. Bennett used the employer’s credit card for food for meeting with her superiors and for pop and water in her office. Mr. Cook reported Ms. Bennett offers alcohol to minors and “On more than one occasion she has come in higher than a kite and taking the clients’ food.”

Ms. Bennett consistently broke confidentiality policies by discussing staff disciplinary action and gossiped about staff and clients alike. Ms. Chambliss provided a written statement confirming that Ms. Bennett told her about two staff that were being fired but told her not to tell anyone. Ms. Bennett also asked Ms. Anjanay to “lie about them to help her get them fired.” Mr. Cook said, “She has cornered, literally cornered people and threatened to fire them for ‘not telling the truth’ about stuff she doesn’t even know.” Ms. Bennett told the claimant on May 15, 2012 that Chris McMurray and co-employee Nikki had been having a lot of personal problems and Nikki was talking about divorcing Chris. On June 20, 2012, Ms. Bennett said, “I probably shouldn’t be telling you this but Tiffany dropped Calista off the changing table this morning. But don’t tell anyone I told you.” Ms. Bennett also told the claimant that the husband of co-employee Donna Kleiss cheated on her, left her, and caused her to have a stress induced stroke.

Ms. Bennett was required to complete mandatory paperwork but the claimant found this important paperwork in the trash. The claimant filled out client individual plans for weekend activities and put it in the memo book. A co-worker saw Ms. Bennett rip it out of the book, crumple it up, and throw it away.

The claimant reported her complaints to Area Supervisor Mary Beth Russell in May 2012, but there was no change in Ms. Bennett’s behavior. The claimant spoke to Ms. Bennett in June 2012 in an attempt to change things and Ms. Bennett responded, “Honestly Lucretia, I feel there is a lot of tension between us and I try to avoid you as much as I can.” After that, Ms. Bennett excluded the claimant as much as she could and refused to help when asked. The claimant reported the problems to Staff Specialist Jennifer Tripp and Human Resources Becky Vodraska, but still no action was taken except for a meeting on professionalism on June 28, 2012 and a meeting on communication on July 19, 2012. Co-employee Jessica McFall voluntarily quit on July 25, 2012 for the same reasons. She testified at the hearing and confirmed the complaints about Ms. Bennett.

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 gave her two-week notice to quit on July 30, 2012 due to intolerable and detrimental work conditions. 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).

Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code § 96.2. *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. Iowa Dep't 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 element of good faith." *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.* The evidence provided by the claimant does rise to an intolerable or detrimental work environment.

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. She has satisfied that burden. Benefits are allowed.

DECISION:

The unemployment insurance decision dated August 30, 2012, reference 01, is modified in favor of the appellant. 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/kjw