

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

VICKI L WEST
Claimant

HCI VNS CARE SERVICES
Employer

APPEAL 17A-UI-10223-JP-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/10/17
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the September 29, 2017, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on November 8, 2017. Claimant participated. Employer participated through hearing representative Caroline Semer, human resources director Cara Hannam, and human resources business partner Jessie Riesberg. Claimant Exhibits A, B, and C were admitted into evidence with no objection.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as an ECR systems analyst from November 14, 2011, and was separated from employment on August 1, 2017, when she quit.

The employer moved locations around mid-May 2017. The new location was approximately ten miles from the old location. Around June 5, 2017, the employer assigned claimant a new supervisor, Stacy. Stacy was the supervisor on the hospice side of the employer and claimant worked on the hospice side.

On July 14, 2017, the employer gave claimant a written warning for filing away time sensitive documents without telling the home care department where she put them, which caused the home care department to miss some deadlines. The employer did not warn claimant that her job was in jeopardy. Also on July 14, 2017, claimant's friend informed her that claimant's coworker Becki allegedly told claimant's new supervisor that claimant had been communicating with her former supervisor about the employer. Claimant and Becki share an office together. Claimant brought the issue up with Stacy on July 14, 2017. The supervisor told claimant that she would give claimant the "benefit of the doubt[.]" Claimant Exhibits A and B. Claimant was not happy about Stacy's response. The employer did not discipline claimant for allegedly talking with her former supervisor about the employer.

On July 18, 2017, claimant sent an e-mail to Ms. Hannam regarding the conversation Becki allegedly had with their supervisor. Claimant Exhibit A. Claimant requested to either move offices or have Becki move offices. Claimant Exhibit A. Claimant informed Ms. Hannam she did not trust Becki anymore. Claimant Exhibit A. Claimant also requested to switch back to her former supervisor. Claimant informed Ms. Hannam she would have to resign if they could not find a resolution. Claimant Exhibit A. Around July 18, 2017 Ms. Hannam had a conversation with Stacy about the alleged conversation she had with Becki about claimant. Stacy told Ms. Hannam that Becki did have a conversation with her about claimant contacting her former supervisor. Stacy told Ms. Hannam that she was going to give claimant the benefit of the doubt. Claimant was not disciplined for the alleged conversation.

Around July 18, 2017, Ms. Hannam had a conversation with claimant regarding claimant's issues with her coworker Becki. Claimant informed Ms. Hannam that she was going to resign if things were not changed. Ms. Hannam told claimant she understood and would check to see if the employer could accommodate her requests. After Ms. Hannam spoke with claimant, she determined that the employer could not accommodate claimant's request. The employer was not able to accommodate claimant's switch to a different office or to work from home. The employer has plans for the location claimant suggested she could move too. Another reason the employer was unable to move claimant was because the files she worked on and the rest of her team were located in her current location. Claimant also works with the medical files, which are onsite, so the employer could not let her to work from home. The employer also was not able to accommodate claimant's request to switch to her former supervisor, because her former supervisor had a different role because of a restructuring at the employer.

Around July 19, 2017, Ms. Hannam told claimant the employer could not accommodate her requests. Claimant told Ms. Hannam she was going to have to resign. On July 19, 2017, claimant sent Ms. Hannam her resignation letter because the employer denied her requests and she could not work with Becki. Claimant Exhibit B. Claimant's resignation was effective two weeks from July 19, 2017, which was August 2, 2017. The employer accepted claimant's resignation. The employer paid claimant until her resignation effective date (August 2, 2017), but it did not have her work at the employer. There was work available for claimant had she not resigned.

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 reviewed the exhibits that were admitted into

evidence. This administrative law judge finds the employer's version of events to be more credible than claimant's recollection of those events.

Iowa Code section 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.

Iowa Admin. Code r. 871-24.25(6) 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 section 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 section 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:

(6) The claimant left as a result of an inability to work with other employees.

Iowa Admin. Code r. 871-24.25(28) 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 section 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 section 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:

(28) The claimant left after being reprimanded.

Iowa Admin. Code r. 871-24.25(37) 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 section 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 section 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:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or

reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

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 she had to quit because she could not work with Becki anymore and the employer would not accommodate her requests, is not persuasive. Although claimant may not have wanted to work in the same office as Becki, the employer has the right to allocate its resources as it seems fit. Ms. Hannam credibly testified that she did look at whether the employer could accommodate claimant's requests, but the employer was not able to. Furthermore, Claimant was not disciplined for what Becki told Stacy. Stacy also told claimant she would give claimant the "benefit of the doubt[.]" Claimant Exhibits A and B. It is also noted that claimant quit less than a week after she was disciplined by the employer.

Claimant's decision to quit because she did not want to work with her coworker Becki was not for a good cause reason attributable to the employer. Iowa Admin. Code r. 871-24.25(6). Claimant's decision to quit after she was recently reprimanded is also not for a good cause reason attributable to the employer. Iowa Admin. Code r. 871-24.25(28). Claimant has not demonstrated that a reasonable person would find the work environment detrimental or intolerable. *O'Brien v. EAB*, 494 N.W.2d 660 (Iowa 1993); *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). Claimant has not met her burden of proving that her voluntary leaving was for good cause attributable to the employer. 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 September 29, 2017, (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 claimant 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/rvs