

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JENNIFER L CORADO
Claimant

APPEAL 21A-UI-21259-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CLEMONS INC OF OTTUMWA
Employer

**OC: 08/08/21
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the September 21, 2021 (reference 01) unemployment insurance decision that denied benefits based upon her voluntarily quitting work without good cause attributable to the employer. The parties were properly notified of the hearing. A telephone hearing was held on November 16, 2021. The claimant participated personally. The employer did not participate. David Loetz represented the claimant. The administrative law judge took official notice of the claimant's administrative records.

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 office manager beginning on March 18, 2016. She tendered a verbal and written resignation to the employer on August 12, 2021.

Claimant tendered her resignation based upon her believe that the employer was engaging in illegal activities. Claimant had brought several matters to the General Manager's and CFO's attention which she believed involved illegal activities. These acts included falsifying odometer disclosure statements, including incorrect lien holder information, creating customer signatures and notarized forms without the customer being present, and restricting the reporting of human resources complaints within the company.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

Claimant had an intention to quit and carried out that intention by tendering a written and verbal resignation. As such, 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).

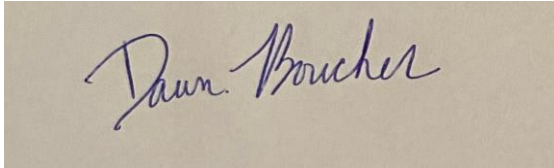
"Good cause attributable to the employer" does not require fault, negligence, wrongdoing or bad faith by the employer. *Dehmel v. Employment Appeal Bd.*, 433 N.W.2d 700, 702 (Iowa 1988)("[G]ood cause attributable to the employer can exist even though the employer is free from all negligence or wrongdoing in connection therewith"); *Shontz v. Iowa Employment Sec. Commission*, 248 N.W.2d 88, 91 (Iowa 1976)(benefits payable even though employer "free from fault"); *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787, 788 (Iowa 1956)("The good cause attributable to the employer need not be based upon a fault or wrong of such employer."). Good cause may be attributable to "the employment itself" rather than the employer personally and still satisfy the requirements of the Act. *Raffety*, 76 N.W.2d at 788 (Iowa 1956).

Where an employee quits because of allegedly illegal working conditions the reasonable belief standard applies. "Under the reasonable belief standard, it is not necessary to prove the employer violated the law, only that it was reasonable for the employee to believe so." *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993). Good faith under this standard is not determined by the claimant's subjective understanding. The question of good faith must be measured by an objective standard otherwise benefits might be paid to someone whose "behavior is in fact grounded upon some sincere but irrational belief." *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330, 337 (Iowa 1988). The "key question is what a reasonable person would have believed under the circumstances" and thus "the proper inquiry is whether a person of reasonable prudence would believe, under the circumstances faced by [Claimant], that improper or illegal activities were occurring at [Employer] that necessitated his quitting." *O'Brien*, 494 N.W.2d at 662; accord *Aalbers*, 431 N.W.2d at 337 (Iowa 1988).

In this case, the claimant clearly had an objectively reasonable belief that the employer was engaging in illegal activities that necessitated her voluntarily quitting her employment. As such, the separation from employment is not disqualifying. Benefits are allowed, provided the claimant remains otherwise eligible.

DECISION:

The September 21, 2021 (reference 01) unemployment insurance decision is reversed. Claimant voluntarily quit employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

A rectangular area containing a handwritten signature in blue ink that reads "Dawn Boucher".

Dawn Boucher
Administrative Law Judge

December 22, 2021
Decision Dated and Mailed

db/mh