

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MEGAN M BUFORD
Claimant

APPEAL 18A-UI-11744-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

RIVERSIDE CASINO AND GOLF RESORT
Employer

**OC: 11/04/18
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin r. 871-24.25 – Voluntary Quit Without Good Cause

STATEMENT OF THE CASE:

Megan Buford, Claimant, filed an appeal from the November 29, 2018 (reference 01) unemployment insurance decision that denied benefits because she quit work with Riverside Casino and Golf Resort without good cause attributable to her employer. The parties were properly notified of the hearing. A telephone hearing was held on December 20, 2018 at 1:00 p.m. Claimant participated. Employer participated through Anna Cavanaugh, Human Resources Business Partner. Claimant's Exhibits A and B were admitted.

ISSUE:

Whether claimant's separation was a voluntary quit without good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a Group Sales Coordinator from April 9, 2018 until her employment with Riverside Casino and Golf Resort ended on July 27, 2018. (Claimant Testimony; Cavanaugh Testimony) Claimant's direct supervisor was Angela Millard, Group Sales Manager. (Claimant Testimony) Claimant's schedule was Monday through Friday from 9:00 a.m. until 5:00 p.m. (Claimant Testimony)

Claimant alleges that her work environment was hostile and that she was subjected to harassment and abuse. (Exhibit A) Claimant kept a journal, noting her concerns regarding events occurring between April 13, 2018 and July 27, 2018; these concerns range from gossip by coworkers to a paper weight being thrown. (Exhibit A) Claimant approached human resources on multiple occasions to report her concerns. (Claimant Testimony; Exhibit A)

Most significantly, claimant alleges that her coworker poisoned her on two occasions: Wednesday, July 4, 2018 and Friday, July 6, 2018. (Claimant Testimony; Exhibit A) Claimant reported her suspicions of poisoning to employer. (Claimant Testimony) Claimant returned to work on Monday, July 9, 2018 but left work early because she felt unsafe. (Claimant Testimony; Exhibit A) Claimant told employer that she would not return to work until adequate safety

measures were put in place; specifically, claimant requested either a security guard posted in her office or surveillance cameras installed in her office. (Claimant Testimony)

As a part of its investigation, employer requested claimant provide more specific information regarding claimant's allegations. (Exhibit A) Claimant responded that she had already provided ample information about hostility in the office. (Exhibit A) Employer specifically requested evidence supporting claimant's allegation of poisoning. (Exhibit A) Claimant responded that she could not prepare a statement in the time allotted by employer and that because employer refused to make the workplace safer, she would file a claim for unemployment insurance benefits. (Exhibit A) Employer accepted her email regarding filing for unemployment as her resignation. (Exhibit A)

As evidence of poisoning, claimant produced a statement dated July 6, 2018 from a doctor at Washington County Hospital and Clinics Emergency Department noting "initial urine testing does show amphetamines in the urine drug screen. Please review this with your normal provider – we will send urine for confirmation testing." (Claimant Testimony; Exhibit A)

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit without good cause attributable to employer. Benefits are denied.

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

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).

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. ...

Iowa Admin. Code r. 871-24.26(2), (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:

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

Notice of an intent to quit is not required when the reason the claimant quit is intolerable working conditions. IAC r. 871-24.26(4); *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Claimant was not discharged from her employment. Claimant was given the opportunity to provide employer with evidence supporting her allegations of an unsafe work environment. When claimant refused to provide additional information, she stated that she would file a claim for unemployment insurance benefits. Because claimant had not been discharged, the only reasonable conclusion was that claimant was voluntarily quitting her employment. Claimant's refusal to return to work and her statement that she would file for unemployment insurance benefits are both evidence of her intention to quit her employment and an overt act of carrying out that intention. Employer accepted claimant's resignation. Claimant provided various reasons for quitting her employment; this administrative law judge has considered them all. Claimant has not met her burden of proving "good cause" attributable to employer. Benefits are denied.

DECISION:

The November 29, 2018 (reference 01) unemployment insurance decision is affirmed. Benefits are denied until such time as the claimant works in and has been paid wages for insured work equal to ten times claimant's weekly benefit amount.

Adrienne C. Williamson
Administrative Law Judge
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Decision Dated and Mailed

acw/rvs