

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KRISTOPHER K WILLIAMS
Claimant

PF CLINTON LLC
Employer

APPEAL 19A-UI-06053-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/23/19
Claimant: Respondent (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code 871-24.26(4) – Intolerable Work Conditions

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated July 18, 2019, (reference 01) that held claimant eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on August 22, 2019. Employer participated by Courtney Volk, Human Resources Assistant. Claimant failed to respond to the hearing notice and did not participate. Employer's Exhibit 1 was 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 June 10, 2019. Claimant left the employment on June 18, 2019 because his work environment had become intolerable.

Claimant began working for employer as a full-time front desk clerk on May 28, 2018. On June 17, 2019 claimant began receiving text messages from his assistant manager. His assistant manager texted that she thought he was very sexy, and that she asked him if he wanted to be off with her. She also asked him if he was dating anyone.

Claimant reported the sexual harassment to his district manager. The store manager later told claimant that the matter had been resolved, and that there was nothing else that could be done about it. The assistant manager continued to work at the business, and claimant did not feel comfortable working in that environment. Claimant notified the employer that he was resigning from the employment effective immediately on June 18, 2019.

REASONING AND CONCLUSIONS OF LAW:

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 work environment had become intolerable.

Iowa Code section 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.

Iowa Admin. Code r. 871-24.26(3) 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:

(3) The claimant left due to unlawful working conditions.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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).

A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court concluded that, because the intent-to-quit requirement was added to Iowa Admin. Code r. 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Claimant's left the employment because his work environment was intolerable, his separation from employment was for a good-cause reason attributable to the employer. Benefits are allowed.

DECISION:

The decision of the representative dated July 18, 2019, reference 01, is affirmed. Unemployment insurance benefits are allowed provided claimant is otherwise eligible.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

dlg/scn