

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTINE L HALL
Claimant

APPEAL NO. 10A-UI-17626-SW

**ADMINISTRATIVE LAW JUDGE
DECISION**

GILLRUS ENTERPRISE LLC
Employer

**OC: 11/14/10
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated December 14, 2010, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A hearing was held on January 25, 2011 in Sioux City, Iowa. The parties were properly notified about the hearing. The claimant participated in the hearing. Paul Gillaspey participated in the hearing on behalf of the employer.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked for the employer from March 24, 2010, to November 11, 2010, as an order processing and shipping manager. Her supervisor was one of the owners, Paul Gillaspey.

On October 22, the claimant received harsh emails about an order from a salesperson for the employer, Robin King, who works in another location in Audubon, Iowa. King initially asked the claimant why she had not responded to the email King had sent on October 21. The claimant replied that she was sorry, but she had gotten busy and it slipped her mind. She told King that the order King was inquiring about had not been shipped and she would email King when it shipped. King replied that her excuse for not replying earlier was "bullshit" and she was fed up and tired of the claimant's excuses. She suggested the claimant was not concerned about customer service, King was "pissed off" because this was not the first problem with the claimant, and the claimant was making King look bad. After the claimant notified her that the package was being sent first class mail that day, King questioned why she had not sent it priority mail, again insisting that the claimant had no concern about making the customer happy. She ended the email telling the claimant that they could take the "damn priority mail postage" out of King's paycheck if the cost was a problem.

The harsh and demeaning tone of the email upset the claimant and caused her to send an email to Gillaspey and the other owner, Becky Rus, that day. In the email, the claimant stated that it was obvious that she was not the right person for the job, could not do things they way

employees were accustomed, and was more trouble than she was worth. She stated that it was better that she offer her resignation before the employer fired her. She wrote that she would stay until the employer found her replacement or January 1, 2011, whichever came first.

Soon afterward, Gillaspey approached the claimant and asked to talk to her about the email. The claimant said that she was too upset to talk to him at that point. At the end of the day, the claimant went to Gillaspey and found him on the phone. When he got finished, Gillaspey suggested they talk on Monday, October 25. The claimant and Gillaspey never had any further conversations about her resignation because over the weekend Gillaspey and Rus decided to accept the claimant's resignation and the claimant decided it was up to the employer to approach her after she had sent her email. The employer never expressly told the claimant that it had accepted the resignation. The claimant never expressly told the employer that she had changed her mind about offering her resignation and wanted to continue in employment.

Even before the claimant submitted the resignation, Gillaspey and Rus had decided that the position needed to be restructured due to workload, with the order processing and shipping duties split between two employees. The claimant was aware of this. The employer solicited applications for new employees, with the idea that the person or persons hired would be taking over the claimant's duties.

An employee was hired who the claimant believed was going to be performing the shipping duties and acting as her backup for order processing. The employee shadowed the claimant while she worked on November 5.

On November 8, Gillaspey notified the claimant that November 12 would be her last day of work as they had hired her replacement. The claimant worked on her own on November 8 and 9. On November 10, the claimant worked with her replacement. On November 11, Gillaspey gave the claimant a going-away card and said it was her last day.

The claimant filed a new claim for unemployment insurance benefits with an effective date of November 14, 2010.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a.

Once an employee offers a resignation to her employer, the employer has the choice to accept or refuse to accept the resignation. The employee may change their mind, but that does not change the fact that the employee has initiated the separation and the employer is not obligated to allow the employee to withdraw their resignation. Obviously, if an employee does withdraw her resignation and the employer agrees, the employer cannot renege on the deal later and insist the claimant has quit. But that never happened here because the claimant never went back to the employer and told management that she had changed her mind and wanted to continue to work. The claimant said she would continue to work until a replacement was found, and the employer allowed the claimant to work until they had secured the replacement. Even if the employer advanced the last day of work by one day, it does not change the outcome here. The claimant is deemed to have voluntarily quit employment when she offered to resign and the employer accepted the resignation. Also, the fact that the offer to resign was by email rather than a formal letter of resignation is of no consequence. See 871 IAC 24.25(37) (claimant

presumed to have quit employment without good cause after giving the employer notice of an intention to resign and the employer accepted the resignation).

The question remains whether the claimant quit employment with or without good cause attributable to the employer. She quit employment in reaction to the harsh emails from King and a belief that her job performance was not to the satisfaction of the employer. King's emails were harsh and contained demeaning language. However, without a complaint to management by the claimant about King's conduct, her conduct is not attributable to the employer as required by the statutes, but instead amounts to dissatisfaction with the work environment, which the rules deem not good cause to quit. 871 IAC 24.25(21).

Finally, the rules state that a claimant who leaves employment because she felt that her job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available, is considered to have quit employment without good cause. 871 IAC 24.25(33). At the point that the claimant offered to resign, the employer had not requested that she leave and there was work available. No good cause for quitting attributable to the employer has been shown in this case.

DECISION:

The unemployment insurance decision dated December 14, 2010, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css