

In mid-April of 2020, the Claimant and several other employees heard screaming coming from the shop while they were on break. Someone ran to open the door and they all witnessed McMahon choking his 16-year son, Ethan, by standing behind his son with his arms around his neck, lifting Ethan to his tiptoes. Both men's faces were red. The Claimant was upset for several days about the incident. A few days later, she asked Ethan what happened to which he replied that he had mocked his father.

On May 1, 2020, the Employer became irate with the Claimant because he didn't believe she and the other employees performed their duties to his satisfaction. As the Claimant tried to explain the situation, the Employer became increasingly aggressive in his demeanor, yelling and screaming. He told the Claimant that if she knew what was good for her, she would get back to the content table and continue cleaning. His face reddened and he called the Claimant 'a f-cking liar'. The Employer's behavior frightened the Claimant based on his prior behavior, particularly, with his son. The Claimant feared his behavior was escalating and she did not feel safe working in that environment. She told the Employer "she couldn't take it anymore and she was leaving."

The Employer denied yelling and screaming at the Claimant, as did the Employer's witnesses who are still employed with him. The son denied the 'choking' incident. The Employer indicated he did not believe the May 1st incident was a big deal.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.25(5) 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...

The claimant left due to intolerable or detrimental working conditions.

The Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code §96.6(2) (amended 1998).

The findings of fact show how we have resolved the disputed factual issues in this case. We have carefully weighed the credibility of the witnesses and the reliability of the evidence. We attribute more weight to the Claimant's version of events. Her testimony that she worked in an environment where the Employer routinely yelled and screamed was corroborated by her witness, a former employee, who also had firsthand knowledge of the Employer's behavior on the job. We find the Employer and his witnesses' denial of the Claimant's characterization is a minimization of the Employer's aggressive outbursts, i.e., he sometimes 'raised his voice' or 'talked loudly.' By the Employer's own account, he didn't think his behavior was 'a big deal.' As for the son's denial of the 'choking' incident, we do not find it wholly unreasonable that a minor son would categorically deny his father's horrific treatment of him when put on the spot against an 'outsider.' Be that as it may, the son's denial does not detract from the Claimant's credibility. Rather, it solidifies her belief, which we find reasonable, that the final incident was an escalation of what she perceived to be a detrimental, intolerable and unsafe working environment.

The fact that the Claimant did not report her concerns to the Employer are quite understandable; there was essentially no one she could report to, other than the person whom she perceived was the culprit. Given his erratic behavior, it is no wonder she never tried to talk to him. Besides, the court in Hy-Vee v. Employment Appeal Board, 710 N.W.2d 1 (Iowa 2005) held that the notice of intention to quit set forth in Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993) does not apply to quits involving detrimental and intolerable working conditions. The Hy-Vee case also overturned Swanson v. Employment Appeal Board, 554 N.W.2d 294 (Iowa App. 1996) involving quits due to unsafe working conditions.

Based on this record, we conclude the Claimant satisfied her burden of proving her quit was based on the Employer's behavior who made it intolerable for her to continue her employment.

DECISION:

The administrative law judge's decision dated August 7, 2020 is **REVERSED**. The Employment Appeal Board concludes that the Claimant voluntarily quit with good cause attributable to the Employer. Accordingly, she is allowed benefits provided she is otherwise eligible.

Ashley R. Koopmans

James M. Strohman

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AMG/fnv