

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

HOWARD HUFF
Claimant

**WEST DES MOINES COMMUNITY
SCHOOL DISTRICT**
Employer

Case No. 21IWDUI2097

APPEAL 21A-UI-07589

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/03/21
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Claimant/Appellant Howard Huff filed an appeal from the March 2, 2021 (reference 01) unemployment insurance decision denying benefits. The parties were properly notified of the hearing. A telephone hearing was held on May 5, 2021. The Claimant, Howard Huff, appeared, represented himself, and testified. The Employer, the West Des Moines Community School District, did not participate in the hearing. The Administrative Law Judge took administrative notice of the following documents in the record: a) transmittal sheet sending the case to the Department of Inspections & Appeals; b) Notice of Hearing issued 4/19/2021; c) 3/02/2021 Iowa Workforce Development decision denying benefits; d) Claimant's 3/12/2021 Appeal with attached documents; e) fact-finding documents; and f) Claimant's subpoena request and Employer's response. The Claimant submitted four documents for use as exhibits at hearing, including: 1) 9/15/2020 email asking for a leave of absence; 2) 9/10/20 emails and document discussing hostile environment claim; 3) vocabulary list of educational terms; 4) Claimant's 9/17/2020 resignation email. The record also includes a copy of an April 30, 2021 letter from the West Des Moines Community Schools stating: "It is not the intent of the West Des Moines Community Schools to contest, appeal, or protest unemployment benefits to the extent they are entitled to Mr. Howard Huff." The letter was submitted by the Employer's counsel, Attorney Kristy M. Latta.

ISSUES:

Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the Administrative Law Judge finds:

Claimant Howard Huff began teaching for Employer West Des Moines Community School District in August of 2019. He initially was hired on a part-time basis, but became full-time at the end of the 2019/2020 school year. He had three roles for the schools; 1) geographic cultural studies teacher; 2) Project-Base Learning (PBL) facilitator; and 3) At-Risk teacher. He worked at the West Des Moines' Valley Southwood school for ninth grade students.

Claimant Huff is an experienced and well-educated teacher. Before coming to work for the West Des Moines Schools, he worked for the Des Moines School District for two years, and before that taught at Iowa Central Community College. Before that he taught at several schools, including schools overseas. Claimant Huff has an undergraduate degree from Montana State, a master's degree from Drake University, and is finishing up his Ph.D. from the Chicago School of Professional Psychology. Claimant Huff has earned several awards for his teaching, including the "Tiger Paw Award" voted on by West Des Moines school administration. He has been awarded "Teacher of the Year" awards three times at different schools.

In his role as a PBL facilitator at Valley Southwoods, Claimant Huff was assigned to work with a co-teacher. Claimant Huff and the assigned co-teacher appeared to clash early and often during the 16 months they worked together. Claimant Huff gave several examples where he believed the co-teacher engaged in inappropriate and "hostile" behavior toward him.

- During a team building exercise in August of 2019, she got frustrated with the chaotic exercise and stopped facilitating, stepped to the side of the room, crossed her arms, and indicated she did not approve of the exercise.
- On several occasions she referred to Claimant Huff's proposed activities or exercises as "low level," reflecting her disapproval and disdain of his work and methods. She used the "low level" characterizations to him, and also made such remarks to supervisors and other teachers. He was particularly upset she used that characterization during a district-wide PBL teachers meeting. He felt humiliated.
- He believed a "coaching" teacher assigned to help the two appeared to take the co-teacher's side. At one point, the Claimant was told not to present his ideas at meetings.
- Toward the end of March/early April 2020, when his performance was being evaluated by a Principal, the co-teacher failed to ensure a guest speaker would be prepared. The Claimant believed it was done deliberately to make him look bad for his evaluation.
- During the course of the 2019/2020 school year, the co-teacher made it clear she did not want to engage in PBL planning activities with the Claimant. She asked that their work be separated and she be allowed to follow a more traditional teaching method.

Claimant Huff communicated the above concerns through the various levels of the Employer's management in an attempt to improve the relationship with his co-teacher and advance the PBL effort he was charged with implementing. The levels included talking with the following: 1) assigned teacher "coaches;" 2) Professional Learning Committees; 3) school principal and vice principal; and 4) district human resource and central administrative staff. Claimant Huff has extensive emails of his efforts. At the end of the 2019/2020 school year, Claimant Huff was told that he would not have to continue working with the co-teacher. However, things changed, and he was told in June or July of 2020 that they would again be co-teaching PBL together. He learned that the co-teacher once again asked that they be separated. According to the Claimant, the co-teacher was hostile and uncooperative with working on PBL plans with him. Claimant Huff was told by a supervisor that he was "not making himself available" to plan PBL coursework. He disputed that criticism and noted that he and the co-teacher had ten days of activities already plan. Nonetheless, he took the suggestion to heart, and offered to meet with her when it was convenient.

The relationship between the two did not improve. In the fall of 2020, Claimant Huff was upset when he learned that the co-teacher had deleted his Ph.D. dissertation learning management software from their shared account. He believed that the program was well-used and popular with students.

Claimant Huff also believed that in the fall of 2020, the co-teacher had told other teachers about her problems with the Claimant. He found other teachers started acting "unfriendly" and "hostile" to him. The last straw for the Claimant came in early September when he heard the co-teacher making comments about him, specifically about his weight and his "lifestyle." He asserts she

made those comments to him, and also made them in front of other teachers. He believed her comments were directed at his sexual orientation.

On September 10, 2020, Claimant Huff advised his supervising Principal about the co-teacher's comments about his "lifestyle," and her refusal to work with him. The Claimant believed that the "lifestyle" comment could be taken in a couple of ways – "sexual preference or something to do with extracurricular activities." He asked to meet with the Principal.

The Principal responded that day and proposed a meeting time. The Principal also stated in pertinent part that he "will do everything in my power to adjust this situation when given an opportunity to do so." The Principal also stated, "Her comments about your lifestyle have nothing to do with the topics you listed above as I have asked for clarification of that. She simply means that you are single, work late into the evenings as needed, and no kids. Howard, I would like to give this conversation more time if I could but I only have 15 minutes this afternoon."

The Claimant made arrangements to meet with a human resources official to discuss his situation. On Tuesday, September 14, 2020, Claimant Huff asked administrators if he could take a leave of absence. On Thursday, September 17, 2021, Claimant Huff met with Dr. Carol Seid, who deals with human resources issues, and Dr. Lisa Remy. The Claimant discussed his concerns with the co-teacher's comments about him, and a relationship he considered toxic. He believed the situation was making it impossible for him to perform his assigned duties as a PBL teacher. Claimant Huff believed when he left the meeting he only had two choices – stay and work in a hostile environment that rendered him incapable of doing his job, or resign. At hearing Claimant Huff emphasized that he had been trying to work with school administration for some 16 months to resolve the situation, but to no avail.

Claimant Huff was complimentary of the school district, its commitment to students, and its handling in the fall of 2020 to the coronavirus pandemic.

Claimant Huff submitted a resignation email on September 17, 2020 at 6:44 p.m. to Dr. Seid and Dr. Remy. It read in pertinent part:

After meeting with you today I am moving to tender my resignation from Valley Southwood (VSW) as their GCS, PBL, and Learning Lab teacher. It is with reluctance that I do this because I am so fond of the students and families that call VSW their school. Furthermore, it was my school too.

It is due to what ever sixteen months of working to build better relationships based on what is best for students, transparency, and positivity for the course style that I feel the working relationship became intolerable.

Leaving VSW is done with teaching memories that include some of the best teaching interactions with students and students interacting with each other, ever observed anywhere in the world. West Des Moines Community School District, as it is plain to see, has worked hard to provide students with all that they need to thrive within a modern education setting.

(Claimant Ex. 4).

Claimant Huff testified that the district agreed it would not take any disciplinary action against him and/or his teaching license with regard to his departure.

Claimant Huff applied for unemployment assistance on January 3, 2021. Iowa Workforce Development issued a decision on March 2, 2021 denying his application. The denial letter stated in pertinent part: "Our records indicate you voluntarily quit work on 01/05/2021 because you were dissatisfied with your work conditions. Your quitting was not caused by your employer."

Claimant Huff maintains he did not want to quit, rather was forced to because of intolerable working conditions that: a) made it impossible for him to perform his job duties; and 2) subjected him to inappropriate comments.

The only evidence the school district provided for the appeal hearing was an April 30, 2021 letter stating: "This is to document that it is not the intent of the West Des Moines School Community Schools to contest, appeal, or protest unemployment benefits to the extent they are entitled to Mr. Howard Huff."

REASONING AND CONCLUSIONS OF LAW:

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 Code § 96.5(1) (2019). Section 96.5(2)(a) provides in turn:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:
 - a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Code § 96.5(2)a (2019). First it must be determined whether the employee quit or was discharged from employment. The employee bears the burden to meet the basic eligibility requirements under Iowa Code § 96.4. It is the employer's burden to prove the claimant is disqualified for benefits pursuant to § 96.5(2)a.

Here, there is no evidence that Claimant Huff was discharged for misconduct. Rather, the sole issue is whether Mr. Huff has met his burden to prove he quit voluntarily for good cause attributable to the employer. Iowa Code § 96.6(2) (2019).

The following is a partial list of reasons enumerated in the regulations for a claimant leaving employment with good cause attributable to the employer:

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- 24.26(2)** The claimant left due to unsafe working conditions.
- 24.26(3)** The claimant left due to unlawful working conditions.
- 24.26(4)** The claimant left due to intolerable or detrimental working conditions.

.....

871-24.26(96).

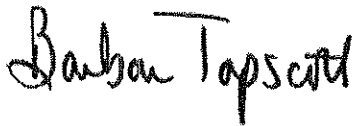
Claimant Huff testified that he loved his work at Valley Southwoods and that he left only because his working conditions were "intolerable" and/or "detrimental." The assigned Judge finds that Claimant Huff credibly testified that he would have continued working if steps would

have been take to address the toxic work relationship between him and the assigned co-teacher, and her disparaging comments about him. There was evidence that the Claimant had raised his concerns for months, and at one point it appears the two were not going to teach together anymore. To be sure, in the fall of 2020 school administrators and staff were dealing with the coronavirus pandemic, and likely had limited time to delegate to the Claimant's concerns. Nonetheless, the Claimant's concerns about his inability to perform his assigned PBL tasks were objectively reasonable.

The assigned Judge finds that Claimant Huff has met his burden to prove he quit with good cause attributable to the Employer. The West Des Moines Community Schools failed to appear to refute the Claimant's evidence. Benefits are allowed.

DECISION:

The March 2, 2021 (reference 01) unemployment insurance decision is **REVERSED**. Claimant Howard Huff quit with good cause attributable to the employer. Benefits are allowed, provided he is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.



Barbara Tapscott
Administrative Law Judge

May 12, 2021
Decision Dated and Mailed

BMT/AA

cc: Howard Huff (by first class mail)
West Des Moines Community School District c/o Linda Rippentrop (by first class mail)
Krista Latta, Ahlers & Cooney, P.C., 100 Court Ave. – Suite 600, Des Moines, IA 50309
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