

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY LENTZ
Claimant

APPEAL NO: 18A-UI-03850-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANLY TERMINAL LLC
Employer

OC: 01/07/18
Claimant: Appellant (1)

Iowa Code § 96.5(1)a – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a decision of a representative unemployment insurance decision dated March 21, 2018, (reference 02) which denied benefits finding the claimant voluntarily left employment because she felt like she was being harassed on the job but, the record did not establish sufficient evidence to show good cause for quitting. After due notice was provided, a telephone hearing was scheduled for and held on April 18, 2018. Claimant participated. Employer participated by Mr. Lee Klewiet, Company President. Four additional witnesses listed for the employer were not available at the employer's business telephone number. The employer elected not to have the additional witnesses called at their residences. Employer's Exhibits A, B, C, D, E, F, G and H were admitted into the hearing record. Claimant's Exhibits 1 through 10 were admitted into the hearing record.

ISSUE:

Whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Mary Lentz was employed by Manly Terminal LLC from November 8, 2013 until March 5, 2018, when she quit employment. Ms. Lentz had temporarily left her employment with Manly Terminal LLC in January, 2018, but had returned to work shortly thereafter after reaching an agreement with the company president that limited the contact that a company supervisor was to have with Ms. Lentz. Ms. Lentz worked as a full-time Logistics Coordinator/Clerical worker and was paid by the hour. Her immediate supervisor was the company president, Mr. Lee Klewiet.

Ms. Lentz left her employment with Manly Terminal LLC on March 5, 2018, after she recently received a number of question's from the Company owner about work status, and because her belief that the company intended to fire her. Ms. Lentz also believed that another employee had his job threatened for speaking to her at work.

Ms. Lentz had temporarily left her employment in early January, 2018, because of issues with Mr. Ostrander, the supervisor of outside drivers, who had been yelling and personally harassing Ms. Lentz. The claimant agreed to return to work a few days later after the company owner had promised to take steps to minimize the time that Mr. Ostrander would be in the office and had moved Ms. Lentz's desk to another portion of the office area. Ms. Lentz complained that Mr.

Ostrander had often used inappropriate language and been disruptive. Two other female workers also worked at the facility. Due to the nature of his work, Mr. Ostrander was often in the office area, but he had been warned to avoid speaking with the claimant or having any interaction with her. As time progressed, Ms. Lentz found that her request to have Mr. Ostrander minimize interacting with her, was causing job issues because they were not communicating directly.

On February 27, 2018, Ms. Lentz sent an e-mail to Mr. Klewiet, the company president, informing him that although Mr. Ostrander was not directly speaking with her, as directed, Mr. Ostrander was still at times making inappropriate statements to other workers in the office and via radio. In the email, Ms. Lentz referred to vulgar references to portions of the anatomy of other female workers. Mr. Klewiet responded that further action would be taken because of the complaint. Mr. Klewiet also referenced that he had received complaints about Ms. Lentz's conduct from other workers. Ms. Lentz believed that the company president's response was retaliatory, and in effect, bringing blame on her for complaining about another worker.

On Monday, March 5, 2018, Ms. Lentz sent an e-mail to Mr. Klewiet citing past conduct on the part of Mr. Ostrander that she still felt was objectionable. Ms. Lentz stated that she was leaving employment because of sexual harassment and her belief the employer was finding a way to end her employment. The claimant also asserted her belief that Mr. Klewiet had threatened the jobs of other workers for speaking to her.

In the weeks leading up to the claimant's resignation on March 5, 2018, Ms. Lentz had received a number of inquiries about her work from Mr. Klewiet and thought that he was scrutinizing her work to find a reason to discharge her. A truck driver had also told the claimant that Mr. Klewiet told him that he would be fired if he spoke to Ms. Lentz.

The additional job status inquiries that had been directed to Ms. Lentz were caused in part, by Ms. Lentz's request to avoid working directly with Mr. Ostrander. This caused Mr. Klewiet to direct more inquiries to the claimant rather than having Mr. Ostrander obtain the information from Ms. Lentz. Mr. Klewiet had not instructed company employees that they would be fired for speaking with Ms. Lentz. In the meeting that he had held with all company employees after the claimant's complaint of sexual harassment, Mr. Klewiet had stated to drivers that they would be subject to discharge if they spoke inappropriately to female workers, and workers were instructed to minimize any non-work conversations with female office workers. Work continued to be available to Ms. Lentz at the time that she left employment.

Based upon Ms. Lentz's complaint that Mr. Ostrander was continuing to use inappropriate language, the employer conducted an inquiry. Other workers did not confirm Ms. Lentz's allegations of inappropriate language on the part of Ms. Ostrander, and no other workers had complained.

REASONING AND CONCLUSIONS OF LAW:

In general a voluntary quit involves evidence of an intention to sever the employment relationship in an overt act carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). In this case, the claimant demonstrated her intent to quit when she submitted her resignation on March 5, 2018. It is the claimant's burden to prove that the voluntary quit was for good cause that was attributable to the employer.

In the case at hand, the claimant had initially left employment temporarily because of the conduct of a male worker. When the company president became aware of the claimant's dissatisfaction, an agreement was reached for Ms. Lentz to return to work and in turn the company president made changes specifically instructing the male worker to avoid contact with Ms. Lentz and to minimize his time in the offices where Ms. Lentz performed her duties.

Because Mr. Ostrander was no longer to interact directly with Ms. Lentz, the company president needed to get necessary business information directly from Ms. Lentz to result in more questions to the claimant about work issues. Based upon rumor and the fact she was getting more questions about her work, Ms. Lentz concluded that the employer was seeking a way to end her employment, although the employer had gone to great lengths to have her return to the job. Ms. Lentz apprehension was further increased when a truck driver provided inaccurate information about what the company president had stated to employees in a meeting. The company president had instructed all workers to minimize non-work related conversations with female workers and told them they would be discharged if they engaged in inappropriate conversations with female workers. The truck driver's version of the meeting caused Ms. Lentz to believe that the driver had been told that he would be fired for "speaking to Ms. Lentz".

The evidence establishes that although Mr. Ostrander was generally complying with the mandates that had been given to him by the company president to avoid more contact with Ms. Lentz and to act more appropriately in the company office, Mr. Ostrander continued at times to have conversation with other workers that Ms. Lentz could over-hear. When informed by Ms. Lentz of this contact, the company president promised to immediately take action to resolve the complaint. The employer had acted quickly and decisively based upon claimant's first complaint and the claimant had no reasonable basis for believing the employer would not act on her most recent complaint as well. The fact that Mr. Klewiet stated that he had received some complaints about Ms. Lentz's conduct as well, was not meant to retaliate against the claimant, but only to inform her that her conduct, as well as the conduct of others was expected to improve. Later inquiry made by the employer showed that other workers had not complained about Mr. Ostrander's recent conduct or heard the language attributed to Mr. Ostrander by Ms. Lentz.

While Ms. Lentz's reasons for leaving this employment may have been good cause reasons from her personal viewpoint, the administrative law judge concludes that her reasons for leaving were not good cause reasons attributable to the employer.

Unemployment insurance benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

DECISION:

The representative's unemployment insurance decision dated March 21, 2018, reference 02 is affirmed. Claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

Terry P. Nice
Administrative Law Judge

Decision Dated and Mailed

tn/scn