

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

VICKI L KING
Claimant

APPEAL 24A-UI-07384-ED-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SCHRAAD & ASSOCIATES SALES
Employer

**OC: 07/28/24
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The Claimant, Vicki King, filed an appeal from the August 16, 2024 (reference 01), unemployment insurance, decision that denied benefits based upon the claimant's voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on September 6, 2024. Claimant, Vicki King, participated and testified. Employer, Schraad & Associates Sales, participated through witnesses, Dawn Cannon, Vicki Worster, Mason Miller, and Renee Cirksena. Employer's Exhibits 1 - 4 were offered and admitted with no objection. The Claimant's Exhibits 1 - 6 were offered and admitted with no objection. Official notice was taken of the claimant's administrative record.

ISSUES:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant, Ms. King, began working for this employer on August 21, 2023 as a full-time sales support representative. Her immediate supervisor was Mason Miller. Ms. King last physically worked in the job was July 30, 2024. Ms. King's shift was scheduled to end at 5:00 p.m. However, on July 30, 2024, Ms. King left work at 9:17 a.m. without notifying her employer before she left. After leaving, Ms. King sent her supervisor an email notifying the employer that she had left and was not coming back.

The employer documented two dates in Ms. King's work file indicating performance issues with Ms. King: September 22, 2023 and February 12, 2024. The file also stated that Ms. King felt her immediate supervisor, Mason Miller, was upset with her and she had difficulty trusting him. Until the last two months of Ms. King's employment, she got along well with Renee Cirksena. Ms. Cirksena had addressed some of the performance issues with Ms. King informally. However, on June 11, 2024, an interaction occurred between Ms. King and Ms. Cirksena that disrupted their positive working relationship. During the interaction, Ms. Cirksena and Ms. King had a dispute about the claimant's work. Ms. Cirksena's intent was to help Ms. King improve her work performance. During the conversation, Ms. King heard Ms. Cirksena tell her that she was trying to help her but, she still fucked it up. Ms. King also heard Ms. Cirksena call her a

narcissist because she blamed everyone else for her errors. Ms. King was deeply troubled by this interaction and submitted a report to human resources. Ms. Worster, a third party human resources consultant, was assigned to investigate the incident.

On July 3, 2024, Ms. Worster met with Ms. King to explain her findings and that she was unable to confirm the claimant's allegation that anything inappropriate occurred. Ms. King was upset by these findings and insisted that Ms. Cirksena had used profanity in the interaction. Ms. King also reported that after the incident with Ms. Cirksena, they no longer spoke to each other in person but communicated only in emails and that the emails from Ms. Cirksena had been negative and intimidating. Ms. Worster reviewed the emails and determined they were not inappropriate or unprofessional.

On the morning of July 30, 2024, Ms. King was presented with a performance improvement plan which stated that from January 1, 2024 through the present, it had become increasingly evident that the claimant was not performing her assigned work in accordance with what was expected of her position as a Sales Support Representative. The performance improvement plan went on to address multiple areas of the claimant's performance that were deemed to require improvement and that the claimant would be closely monitored for the next 30 days (July 30, 2024 to August 29, 2024) and that she needed to demonstrate immediate improvement in several areas of her work.

After receiving the performance improvement plan, the claimant left work at 9:17 a.m. and emailed her employer that she wasn't coming back. In the email, the claimant identified two main reasons for leaving: 1) the performance improvement plan she received on July 30 and 2) the complaint she had submitted to human resources for the interaction with Ms. Cirksena and the hostile work environment since the interaction. The claimant's resignation email stated that the employer did not take action in addressing the hostile work situation.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. 871-24.25(28) 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. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(28) The claimant left after being reprimanded.

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). The claimant's intention to voluntarily leave work was evidenced by words and actions. When employees quit work after having been reprimanded, their leaving is without good cause attributable to the employer.

It is the duty of the administrative law judge, as the trier of fact, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other evidence you believe; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The findings of fact show how I have resolved the disputed factual issues in this case. I assessed the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using my own common sense and experience. I find the claimant's testimony regarding her reasons for quitting to be less credible than the employer's testimony.

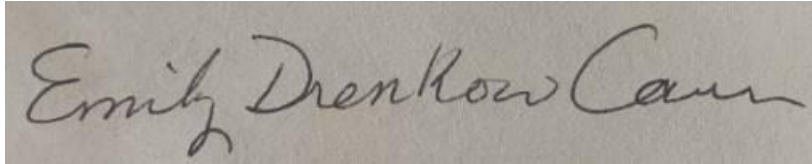
In this case, the claimant left work at 9:17 a.m. on July 30, 2024 after receiving her performance improvement plan. While it is true that Ms. King had submitted a complaint against Ms. Cirksena, the complaint had been investigated by a third party human resources consultant. That consultant found no evidence of anything inappropriate. After receiving the consultant's findings, Ms. King and Ms. Cirksena no longer spoke in person. While this is certainly troublesome in a professional environment, there is no evidence that either party was trying to create hostility toward the other. Instead Ms. Cirksena and Ms. King communicated through email, which Ms. Worster also found to be appropriate. While the administrative law judge can empathize with Ms. King, the evidence establishes that the reason for her resignation was her distress over the performance improvement plan she had received on the morning of July 30, 2024.

The day she received the performance improvement plan, she walked out of the office without informing anyone at 9:17 a.m. She did not attempt to discuss the performance improvement plan with anyone or express any reservations she may have had about the plan before leaving on July 30, 2024. Instead, after leaving the office, Ms. King sent a resignation email.

The incident with Ms. Cirksena that caused the claimant to submit a complaint had occurred almost seven weeks earlier. Ms. Worster shared her findings with Ms. King that there was nothing inappropriate in the interactions on July 6, over three weeks before Ms. King's resignation. The evidence establishes that the reason the claimant resigned on July 30, 2024 was because she had received a reprimand in the form of a performance improvement that day. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's August 16, 2024 decision (reference 01) is affirmed. The claimant voluntarily left work on July 30, 2024 without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

A rectangular box containing a handwritten signature in black ink. The signature reads "Emily Drenkow Carr" in a cursive script.

Emily Drenkow Carr
Administrative Law Judge

September 16, 2024
Decision Dated and Mailed

ed/scn

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Iowa Employment Appeal Board
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Iowa Employment Appeal Board
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.