

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

DEBRA A REDIX
Claimant

APPEAL NO. 19A-UI-03583-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CURBTENDER SWEEPERS LLC
Employer

OC: 04/07/19
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Debra Redix (claimant) appealed a representative's April 23, 2019, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she had voluntarily quit employment with Curbtender Sweepers (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 20, 2019. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. The claimant offered and Exhibit A was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on October 23, 2017, as a part-time staff accountant. On March 28, 2019, the claimant met with the owner of the company and her manager to discuss her ongoing medical condition. She told the employer she had tried all options to relieve her migraine pain but she only found relief in smoking marijuana. She understood this was contrary to the company's policies. The three talked about a solution to her problem.

On March 29, 2019, the employer offered the claimant a severance payment and the claimant accepted. She would have left work without a severance payment because she thought the employer would terminate her if she stayed. She believed this because she planned to treat her medical condition in the only way she found relief and she knew it was against the employer's rules. The employer did not threaten to terminate her employment. Continued work was available for the claimant had she not separated from employment.

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(33) 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:

(33) The claimant left because such claimant felt that the 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.

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 her actions. When an employee quits work because she believes her performance is not to the satisfaction of the employer and the employer has not requested her to leave, her leaving is without good cause attributable to the employer. The claimant left work because she thought her actions would result in her termination even though the employer did not request her to leave. She had the option of remaining employed. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's April 23, 2019, decision (reference 01) is affirmed. The claimant voluntarily left work 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.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs