

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHELSEY R MOWRER
Claimant

D2 LLC
Employer

APPEAL 17A-UI-05497-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/30/17
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Chelsey R. Mowrer (claimant) filed an appeal from the May 17, 2017, reference 01, unemployment insurance decision that denied benefits based upon the determination she voluntarily quit her employment due to a non-work related illness or injury which is not a good cause reason attributable to the employer. A telephone hearing was scheduled for June 9, 2017. The claimant was properly notified about the hearing. However, the employer was not notified as the hearing notice and documentation for the hearing were mailed to an incorrect address.¹ The documentation mailed by the Appeals Bureau was returned the day before the hearing. An employee of the Appeals Bureau contacted the employer, notified it of the hearing, and registered Owner David Barton for the hearing. Barton waived notice on the issues for the hearing and the hearing proceeded as scheduled. The claimant participated. Claimant's Exhibit A was offered and received into the record over the Barton's objection on the basis of relevance.

ISSUE:

Did the claimant voluntarily quit the employment with 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 was employed full-time as a Front House employee beginning on December 5, 2016, and was separated from employment on April 25, 2017, when she quit. The claimant's job required her to carry trays of donuts weighing approximately nine pounds and stand for long periods of time.

During her employment, the claimant developed a chronic blood clot in her right leg and arthritis in her hands. Her doctor advised her to take additional breaks if she was in pain and begin looking for a job that did not require as much standing. However, the claimant's doctor did not advise her that she needed to immediately quit her job nor did she give her any specific restrictions on her ability to work. The claimant notified the employer that she had health

¹ The employer is reminded to update its address in the IWD system by contacting the Tax Bureau or visiting <https://www.myiowaui.org/UITIPTaxWeb/> to update its mailing address for future communications.

issues, but did not request any specific accommodations as a result of her health issues. The claimant did not file a Workers' Compensation claim. She gave the employer notice that she was leaving due to her health issues.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant is separated from employment without good cause attributable to the employer. Benefits are denied.

Iowa Code § 96.5(1)d 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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.25(35) 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:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (d) Fully recover so that the claimant could perform all of the duties of the job.

The court in *Gilmore v. Empl. Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004) noted that:

"Insofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." *White v. Emp't Appeal Bd.*, 487 N.W.2d 342, 345 (Iowa 1992) (citing *Butts v. Iowa Dep't of Job Serv.*, 328 N.W.2d 515, 517 (Iowa 1983)).

The claimant has not established that the medical condition was work related or that treating medical personnel advised her to quit the job, as is her burden. Nor did she request an accommodation from the employer before quitting. Accordingly, the separation is without good cause attributable to the employer.

DECISION:

The May 17, 2017, reference 01, unemployment insurance decision is affirmed. The claimant's separation was without good cause attributable to the employer. Benefits are withheld until such time as claimant works in and has been paid wages equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn