

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RACHEL KREITZINGER
Claimant

APPEAL NO: 14A-UI-01084-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NATIONAL CONCRETE CUTTING INC
Employer

OC: 01/05/14
Claimant: Appellant (1)

Iowa Code §96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's January 27, 2014 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she voluntarily quit for reasons that do not qualify her to receive benefits. The claimant participated at the February 19 hearing. Jeff Bowen and Katie Nelson, the office manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits?

FINDINGS OF FACT:

The claimant started working for the employer in June 2013. The employer hired her to work full time performing office duties. A few days after the claimant started working, she discovered the office allowed employees to smoke in the office. Nelson smoked outside, but when the owner came to the office, he smoked in his office. The owner was not in the office daily and when he was in the office he could be there anywhere from two to six hours. The claimant did not appreciate or like employees smoking at the office.

October 28 was the claimant's last day of work. The claimant had not been feeling well and went to the emergency room on October 31. The claimant was diagnosed as having bronchitis and mononucleosis (mono). The emergency room doctor told the claimant she should not work because of her illnesses and because she was pregnant. The claimant saw her treating physician on November 8. The claimant's treating physician told the claimant she was putting her unborn child at risk if she went back to work.

On November 8, the claimant communicated with Nelson by text messages. The claimant told Nelson she would be unable to work for three months because she had mono and needed a surgery. The claimant then asked Nelson if she could work part time. Nelson could not respond

to this request before she talked to the owner. On November 13, Nelson called the claimant to let her know the employer would allow her to work part time. Nelson left a message for the claimant. The claimant did not contact the employer again and she did not return to work.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6(2).

The law presumes a claimant quits for good cause when she leaves because of illness or pregnancy and upon recovering offers to return to work, but the employer does not have work for her to do. 871 IAC 24.26(6). This is not the factual situation in this case.

The other situation occurs when a claimant is compelled to leave because of an illness that is attributable to the employer. But to be eligible under this provision a claimant must present competent evidence showing adequate health reasons for quitting and prior to quitting the claimant must inform the employer of the work-related health problems. The claimant must also inform the employer she intends to quit unless she is reasonably accommodated. 871 IAC 24.26(6)b.

The facts establish the claimant quit after she asked about working part time on November 8. The claimant abandoned her employment. The employer decided the claimant could work part time until she regained her health and could again work full time. The employer left the claimant a phone message that her request to work part time had been granted. The claimant did not have any contact with the employer after November 8.

The claimant established she quit for compelling personal reasons. She was ill and unable to work full time as of November 8, but her illness was not work-related. The claimant did not quit for reasons that qualify her to receive benefits. As of January 5, 2014, the claimant is not qualified to receive benefits.

DECISION:

The representative's January 27, 2014 determination (reference 01) is affirmed. The claimant voluntarily quit her employment for compelling personal reasons, but her reasons do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of January 5, 2014. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs