

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELISSA SIKKEMA
Claimant

APPEAL NO. 11A-UI-09172-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

CONVENANT MEDICAL CENTER
Employer

OC: 07-01-11
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Leaving
Section 96.3-6 – Timeliness of Appeal

The claimant filed a timely appeal from the July 1, 2011, reference 02, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on August 3, 2011. The claimant participated in the hearing. Deborah Tyler, human resources representative, and Susan Bechtoldt, human resources connect representative, participated in the hearing on behalf of the employer. Department's Exhibit D-1, Claimant's Exhibit A, and Employer's Exhibits One through Nine were admitted into evidence.

ISSUE:

The issue is whether the claimant's appeal is timely and whether she voluntarily left her 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: A disqualification decision was mailed to the claimant's last known address of record on July 1, 2011. The claimant received the decision July 6, 2011. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by July 11, 2011. The appeal was not filed until July 14, 2011, which is after the date noticed on the disqualification decision. The claimant called the Agency July 14, 2011, to be sure her appeal was received and when she learned it was not, she faxed another appeal through her local office. Consequently, the administrative law judge concludes the claimant's appeal is timely, as she filed her original appeal prior to the due date but it was not received by the Department.

The claimant was employed as a part-time pharmacy technician for Covenant Medical Center from September 19, 2007 to September 29, 2010. She became a part-time registry employee effective October 13, 2009, due to her attendance. The claimant was absent due to illness January 18 and 27, February 1, 5, and 15, March 11, and July 6, 7, 12, 19, 22, 29, and 30, 2010 (Employer's Exhibit One). On August 3, 2010, she notified her manager, Jon Beyer, she was in the emergency room and would be unavailable for her August 4 and August 6, 2010 shifts. On August 4, 2010, Mr. Beyer told the claimant he was removing her from the schedule because he needed someone more reliable to work in the pharmacy and instructed her to contact the Leave of Absence Coordinator to apply for a general medical leave of absence, as she did not qualify

for family and medical leave due to her status as a part-time employee. The claimant requested a general medical leave of absence August 5, 2010, to be completed by the claimant and her medical provider and returned to the employer by August 20, 2010. The employer had not received the required paperwork by the due date, so it gave the claimant an additional seven days to return the documentation. The employer did not receive the paperwork by August 27, 2010, so it sent her a letter denying her leave of absence. On September 3, 2010, the employer sent the claimant a letter stating it considered her to have voluntarily quit her job because she did not respond and the claimant contacted Susan Bechthold, human resources connect representative, and was again provided with the general medical leave of absence paperwork and given an additional seven days to complete it. On September 9, 2010, Ms. Bechthold left the claimant a voice mail asking her to contact the employer. It had received the paperwork but it was not completed by a medical provider and, therefore, the employer could not accept it. Ms. Bechthold did not hear from the claimant, so she called her and left voice mail messages September 20, 21, and 23, 2010, but did not hear from her and, consequently, it sent her a letter September 29, 2010, stating it considered her to have voluntarily quit her job. The claimant had been on general medical leaves of absence in the past and correctly completed the paperwork. The claimant did not believe she qualified for the leave because she was a part-time registry employee, but the employer does provide a general medical leave of absence for registry employees.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

Iowa Code section 96.5-1 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.

While the claimant maintains her employment was terminated by Mr. Beyer August 4, 2010, her position does not hold up to scrutiny when considering that the employer sent her at least two sets of paperwork for a medical leave of absence after that date and extended the due date for the required information. It also tried to call the claimant on at least four occasions after August 4, 2010, to discuss the paperwork. Under these circumstances, the administrative law judge must conclude the claimant voluntarily quit her job. The remaining question is whether the claimant voluntarily quit her job with good cause attributable to the employer. 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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code Section 96.6-2. Although the claimant did not believe she qualified for a leave of absence, and did not in fact qualify for family and medical leave, the employer offered a general medical leave of absence that the claimant would have been eligible for had she and her physician properly completed the paperwork. The documentation for family and medical leave and a general leave of absence are the same and if the claimant did not believe she qualified for family and medical leave, she should have clarified that point with the employer. The claimant has not

demonstrated that her leaving was for good cause attributable to the employer as that term is defined by Iowa law. Therefore, benefits are denied.

DECISION:

The July 1, 2011, reference 02, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw