

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JOSHUA W WALDEMER
Claimant

WELLS FARGO BANK NA
Employer

APPEAL 18A-UI-11412-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/04/18
Claimant: Appellant (1)**

Iowa Code § 96.5(1)d – Voluntary Quitting/Illness or Injury
Iowa Admin. Code r. 871-24.25(35) – Separation Due to Illness or Injury

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated November 21, 2018, (reference 01) that held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on December 7, 2018. Claimant participated. Employer participated by Michael Warwick, and was represented by Lesley Buhler, Hearing Representative. Claimant's Exhibits A-J were admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on September 13, 2018. Claimant resigned from the employment on that date.

Claimant began working for employer on December 12, 2012. The claimant was employed as a full-time Loan Adjuster 2 at the time of the separation. Sometime in September 2018, the claimant's physician suggested that the claimant may need to seek other employment. Claimant was feeling anxiety because of work related stress. Claimant's doctor did not write claimant an order stating that he must quit, but claimant believed it was in his best interest to quit his job immediately on September 13, 2018.

Employer knew claimant was under stress at work and it had noticed that claimant's productivity had decreased. Claimant was given less work as he was allowed to work Four days a week instead of Five. Employer had continued work available for claimant, and it wanted claimant to continue working.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code section 96.5(1)*d* 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. 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(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

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.

Claimant did not present evidence in writing to employer that a physician suggested leaving the employment and no work restrictions were in force. Employer attempted to work with claimant by allowing him to work less hours, and by giving him less work. Benefits are denied.

DECISION:

The November 21, 2018, (reference 01) decision is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

dlg/scn