

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DOMINIQUE M KLOTZ
Claimant

BERTCH CABINET MFG INC
Employer

APPEAL 21A-UI-01683-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/22/19
Claimant: Respondent (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On December 22, 2020, Bertch Cabinet Mfg. Inc. (employer/appellant) filed an appeal from the December 16, 2020 (reference 01) unemployment insurance decision that allowed benefits based on a finding that claimant voluntarily quit work on October 22, 2020 because of a medical issue caused by her job; she provided competent medical evidence in support; she notified the employer of the problem and her intent to quit; and employer did not offer reasonable accommodation or comparable work.

A telephone hearing was held on February 22, 2021. The parties were properly notified of the hearing. Employer participated by HR Director Mitzi Tann. Benefits Coordinator Mark Melcher participated as a witness for employer. Dominique Klotz (claimant/respondent) participated personally.

Employer's Exhibits 1-7 were admitted. Official notice was taken of the administrative record.

ISSUE(S):

- I. Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant's first day of employment was July 28, 2014. Claimant worked for employer as a full-time component processor/shipping and receiving apprentice. She most recently worked on the optimizer in the rough mill. Claimant's immediate supervisor was John Henson. The last day claimant worked on the job was October 8, 2020. Claimant resigned on October 22, 2020.

Claimant resigned because her doctor had restricted her from working in an environment with saw dust. This was due to claimant having breathing/asthma issues as a result of the work environment. Claimant reported her restriction to employer on or about October 8, 2020, and provided supporting medical documentation. Employer could not reasonably accommodate

claimant's restriction, as it had no open positions where claimant would not be exposed to saw dust.

Since her separation from employment, claimant has since been searching for work in an office or customer service setting where she would not be exposed to conditions which may exacerbate her breathing issues. Claimant has prior experience in work of that nature.

Claimant has filed a claim for benefits each week from the benefit week ending October 24, 2020 and continuing to present.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the December 16, 2020 (reference 01) unemployment insurance decision that allowed benefits based on a finding that claimant voluntarily quit work on October 22, 2020 because of a medical issue caused by her job is **AFFIRMED**.

- I. Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

Iowa Code section 96.5(1)a 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. 871-24.26 provides in relevant part:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

- (6) Separation because of illness, injury, or pregnancy.**

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "*b*" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). 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).

Claimant resigned because her doctor had restricted her from working in an environment with sawdust. This was due to claimant having breathing/asthma issues as a result of the work environment. Claimant reported her restriction to employer on or about October 8, 2020, and provided supporting medical documentation. Employer could not reasonably accommodate claimant's restriction, as it had no open positions where claimant would not be exposed to saw dust. Claimant has carried her burden of proving the voluntary leaving was for good cause attributable to employer. The separation from employer was not disqualifying and benefits are therefore allowed, provided claimant is otherwise eligible.

DECISION:

The December 16, 2020 (reference 01) unemployment insurance decision that allowed benefits based on a finding that claimant voluntarily quit work on October 22, 2020 because of a medical issue caused by her job is AFFIRMED.



Andrew B. Duffelmeyer
Administrative Law Judge
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March 4, 2021
Decision Dated and Mailed

abd/scn