

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

RAMSAY K CRAUSBY
Claimant

ADE INC
Employer

APPEAL NO. 17A-UI-06534-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/21/17
Claimant: Appellant (1)

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 15, 2017, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on July 14, 2017. Claimant participated. Employer participated by Allen Evans. Claimant's Exhibit A was 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 May 23, 2017. Claimant quit her position with employer on that date.

Claimant began work for her employer on April 10, 2017. On the night before claimant's first day working for employer (she'd been hired previously), claimant's other employer, Long John Silvers, had a fire at their business and was put out of commission for an extended period of time.

At the time of hire, claimant stated that she did not tell employer of bunion problems she had in her foot. Claimant stated that she'd been suffering through bunion pain for many years. Claimant made a decision to have bunion surgery done on her foot in June of 2017. Claimant stated that she asked employer on May 9, 2017 to take eight weeks off for bunion surgery and recovery. She stated that employer refused to grant claimant the time off, so claimant put in a two weeks' notice on that date.

Employer stated that claimant told employer on May 9, 2017 that she was going to go on unemployment as her job with Long John Silver's was cut off for a period of time. That way she could quit this job and get her surgery done while collecting unemployment.

Claimant denies saying this, and states that she asked employer if she could go on leave for an eight week period of time such that she could get her bunion surgery and have time to recover. Claimant stated that employer denied claimant's leave, and that is why she quit.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.5-1 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.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because she wanted to get her bunion surgery while she was off of work from her other job at Long John Silver's.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa Ct. App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *State v. Holtz*, Id. In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *State v. Holtz*, Id. Here, employer's story that claimant was quitting because she could draw unemployment benefits seems to be a logical thought as claimant would be eligible for benefits based upon her layoff from her other employment. But claimant's job separation from the business at hand must be looked at separately. In this separation, if claimant asked for a layoff for her surgery, she would not be eligible to receive unemployment benefits as she would have initiated the layoff. Only if claimant was able to quit with good cause attributable to employer would she be eligible to receive unemployment benefits. The motive for claimant to say she'd asked for time off and been denied is the only possible way for claimant to be eligible for benefits. Unfortunately for claimant, even under that scenario, she would not be eligible for benefits as her injury was not work-related, and claimant was and remains unable to do any type of work while recovering.

DECISION:

The decision of the representative dated June 15, 2017, reference 01, 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.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn