

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**GERALDINE L BLAZEK**  
Claimant

**APPEAL 18A-UCFE-00033-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**US POSTAL SERVICE**  
Employer

**OC: 09/16/18  
Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2) – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Geraldine Blazek, Claimant, filed an appeal from the October 10 2018 (reference 01) unemployment insurance decision that denied benefits because she voluntarily quit work with US Postal Service for personal reasons. The parties were properly notified of the hearing. A telephone hearing was held on October 29, 2018 at 1:00 p.m. Claimant participated. Employer did not participate. No exhibits were admitted. Official notice was taken of the administrative record.

**ISSUE:**

Whether claimant's separation was a voluntary quit without good cause attributable to the employer.

**FINDINGS OF FACT:**

As claimant was the only witness, the administrative law judge makes the following findings of fact based solely upon claimant's testimony: Claimant was employed full-time as a mail carrier from November 2, 1997 until her employment with the United States Postal Service ended on November 2, 2017. Claimant last worked for employer on October 2, 2017.

Claimant needed to have a total knee replacement surgery. Claimant's expected recovery time was three months. Claimant was unable to take paid leave for her recovery. Claimant decided to retire effective November 2, 2017, so that she could have income from her pension while recuperating. Claimant was not forced to retire.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

Pursuant to Iowa Code section 96.5(1), an individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer. Iowa Code § 96.6(2).

Claimant intended to terminate her employment. Claimant argues that her separation was a retirement – not a resignation. The administrative law judge does not make this distinction. Claimant clearly intended to discontinue her employment because she no longer wanted to be an employee of the United States Postal Service. Claimant carried out her intention by quitting her job to accept retirement. Therefore, claimant voluntarily quit her employment.

Iowa Code section 96.5(1)d 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. 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(24) 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:

(24) The claimant left employment to accept retirement when such claimant could have continued working.

Claimant quit her employment due to an injury or illness, but has not recovered from the injury or illness or returned to the employer and offered to perform services. Instead of utilizing medical leave, claimant decided to retire from her employment with the United States Postal Service in order to draw her pension while recovering from surgery. Claimant voluntarily quit her employment without good cause attributable to the employer. Benefits are denied.

**DECISION:**

The October 10, 2018 (reference 01) unemployment insurance decision is affirmed. Benefits are denied.

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Decision Dated and Mailed

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