

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALISON ADAMS
Claimant

APPEAL NO: 17A-UI-05953-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CHRISTIAN OPPORTUNITY CENTER
Employer

OC: 05/14/17
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 6, 2017, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on June 23, 2017. The claimant participated in the hearing with her mother/witness Melissa Adams-Boley. Bre Brooks, Human Resources Director and Doug Vermeer, Associate Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant 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: The claimant was employed as a full-time living skills advisor for Christian Opportunity Center from May 13, 2015 to May 22, 2017. She voluntarily left her employment when she was unable to return to her position following the exhaustion of her FMLA.

The claimant began intermittent FMLA July 17, 2016. She exhausted her FMLA March 20, 2017. The claimant's regular shift was from 9:00 a.m. to 9:00 a.m. the following day. She worked two consecutive days, usually Tuesday and Wednesday. On April 12, 2017, the claimant worked until 1:30 p.m. the second day of her shift before leaving. On April 17, 2017, the claimant's mother called in and stated she would not be in to work. On April 18, 2017, the claimant told the employer she would be at work April 20, 2017, and would attend the staff meeting April 21, 2017, but on April 20, 2017, the claimant called in and stated her new medication was making her drowsy and she could not drive or work. She did not attend the April 21, 2017, staff meeting and did not notify the employer she would not be there.

On April 25, 2017, the employer met with the claimant and explained that when she failed to work or complete her scheduled shifts it placed an undue burden on the employer to find a replacement. The employer offered the claimant eight hour shifts as a living skills advisor but the claimant was not interested in that position because some of the clients were difficult to

communicate with and she would be required to perform more personal cares for the clients. The employer told the claimant if she intended on coming in to work she needed to commit to staying for her entire shift and the claimant stated she could not make any promises. The employer told her if she failed to remain for the entirety of her shift it would engage in progressive disciplinary action. When the claimant could not commit to working her entire shift the employer removed her from the schedule.

On May 2, 2017, the employer sent the claimant a letter reviewing the events to date and restating that the claimant indicated she could not work her assigned shift and was unwilling to work other open positions. The employer gave the claimant until May 10, 2017, to respond and the claimant called May 8, 2017, and stated she was not resigning and would send the employer something in writing by May 10, 2017. The employer had not received anything from the claimant by May 12, 2017, and left her a voice mail stating it had not received the promised information. The claimant did not respond and the employer sent the claimant a letter May 22, 2017, indicating she abandoned her job.

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 § 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.

Iowa Code § 96.5-1-f 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:

f. The individual left the employing unit for not to exceed ten working days, or such additional time as may be allowed by the individual's employer, for compelling personal reasons, if so found by the department, and prior to such leaving had informed the individual's employer of such compelling personal reasons, and immediately after such compelling personal reasons ceased to exist the individual returned to the individual's employer and offered the individual's services and the individual's regular or comparable work was not available, provided the individual is otherwise eligible; except that during the time the individual is away from the individual's work because of the continuance of such compelling personal reasons, the individual shall not be eligible for benefits.

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.

The claimant exhausted her FMLA March 20, 2017. At that time the claimant still did not believe she could work her shifts as scheduled. The employer offered her eight hour shifts with different clients, rather than the 48 hour shifts she usually worked, but the claimant declined to work those shifts because even though both shifts carried the same job title, the eight hour shift required more personal cares than the claimant was comfortable administering.

The claimant's last shift worked was April 12, 2017, but she left early, forcing the employer to scramble to cover her shift. She called in for her April 17 and April 20, 2017, shifts and skipped the staff meeting April 21, 2017, without notifying the employer. She did not provide the employer with any medical documentation covering those shifts.

While the claimant was absent for compelling personal reasons, her absence exceeded ten working days. Under these circumstances, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer. Therefore, benefits must be denied.

DECISION:

The June 6, 2017, reference 01, 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/rvs