

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHARITY E TUSING

Claimant

APPEAL NO. 07A-UI-08578-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PRINCIPAL LIFE INSURANCE CO

Employer

**OC: 08/05/07 R: 03
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated August 31, 2007, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on September 24, 2007. Claimant participated. Employer participated by Shelley Hutchins, Senior Human Resource Generalist.

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 August 9, 2007. Claimant was taking time off from work for cancer treatment. Claimant exceeded her allowed personal time off days. Each time claimant was unable to make up sufficient time she would be written up for absenteeism. Claimant had an appointment on August 10, 2007. Claimant promptly informed her supervisor of the appointment. The supervisor told claimant that if she did not work a full shift on August 10, 2007 she would be discharged. Claimant did not want a discharge on her record so she resigned and cleaned out her desk on August 9, 2007. Employer's policy deems absences due to cancer treatment as unexcused if the employee has exceeded the allowed personal time off days.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because sick leave was denied. Claimant was in treatment for cancer. Denial of legitimate requests for medical leave is an intolerable and detrimental working condition. Taking time off to receive medical care is an excusable event where claimant gave proper notice. The threat of discharge if claimant did not work a full shift the next day is an intolerable working condition. Claimant's first-hand and sworn testimony is more credible than the hearsay offered

by employer. The supervisor that told claimant she would be discharged did not testify in person and under oath. As such, claimant's version is found correct as an issue of law. It seems a retreat from common decency to restrict medical leave for an employee undergoing cancer treatment. Delayed cancer treatment is detrimental to an employee's health. This is a quit for cause attributable to employer. Benefits allowed.

Iowa Code section 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.

871 IAC 24.26(4) provides:

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:

(4) The claimant left due to intolerable or detrimental working conditions.

DECISION:

The decision of the representative dated August 31, 2007, reference 07, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css