

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JILL R MERKLE
Claimant

% EQUIFAX: USPS
Employer

APPEAL 17A-UI-04386-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/26/17
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 14, 2017, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on May 12, 2017. Claimant participated. Employer participated through labor relation specialist Kyle Helm. District regional nurse Sara Weller appeared on behalf of the employer but did not testify.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a rural route carrier from December 30, 2006, and was separated from employment on February 14, 2017, when she quit.

On July 29, 2016, claimant suffered a non-work related injury. Claimant hurt her back and her doctor placed her on work restrictions. Claimant's work restrictions were that she could not lift more than twenty pounds, only stand for an hour at a time, and only sit for an hour at a time. As a rural route carrier, claimant was required to lift up to seventy-five pounds. Claimant was required to stand for three or four hours at a time. Claimant was aware of these conditions when she became a rural route carrier. Claimant went on Family and Medical Leave Act (FMLA) leave due to her injury around September or October. Claimant exhausted her FMLA leave at the end of December. After claimant exhausted her FMLA leave, she requested for something else she could do from the employer. The employer did not have any light duty for claimant to accommodate her work restrictions. Claimant's status with the employer was pending a return to work with no restrictions.

On January 31, 2017, claimant provided the employer a resignation letter with an effective February 14, 2017. The employer accepted her resignation. The employer did not tell claimant she would be discharged if she did not quit. The employer had work available for claimant if she was released to return to work with no restrictions. Claimant has not returned to the employer

to work with no restrictions. Claimant is still under the same restrictions and it is her understanding that they are essentially permanent restrictions.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer. Benefits are denied.

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.

Iowa Admin. Code r. 871-24.25(35) 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:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- a. Obtain the advice of a licensed and practicing physician;
- b. Obtain certification of release for work from a licensed and practicing physician;
- c. Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- d. Fully recover so that the claimant could perform all of the duties of the job.

Iowa Admin. Code r. 871-24.25(37) 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:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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 has not been released to return to full work duties and employer is not obligated to accommodate a non-work related medical condition. On January 31, 2017, because the employer could not accommodate her work restrictions and due to her non-work related injury, claimant informed the employer she was resigning effective February 14, 2017. The employer accepted claimant's resignation and she was separated on February 14, 2017. While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The April 14, 2017, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/rvs