

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAMERRIA S MARTIN
Claimant

CBE COMPANIES INC
Employer

APPEAL 16A-UI-04912-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/03/16
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.26(6)b – Quit for Health Reasons

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 18, 2016, (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit her employment for personal reasons. The parties were properly notified of the hearing. A telephone hearing was held on May 11, 2016. The claimant, Jamerria S. Martin, participated. The employer, CBE Companies, Inc., participated through Toni Babcock, Director of Human Resources; Amanda Hilmer, Senior Operations Manager; and Amber Kleiner, Operations Supervisor. Claimant's Exhibits A through E and Employer's Exhibit 1 were received and admitted into the record without objection.

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 financial services representative from September 14, 2015, until this employment ended on March 31, 2016, when she quit upon advice from her healthcare provider.

Claimant was advised to quit her employment by her mental healthcare provider. Claimant had been diagnosed with depression and anxiety, and her job was exacerbating her symptoms. Specifically, claimant worked in a call center and she routinely dealt with angry customers who were verbally abusive, profane, and hostile. Additionally, claimant was only allowed one excused medical absence each month, which caused her anxiety. Claimant had requested a drastically reduced work schedule on February 17, 2016. The employer agreed to allow her to work 32 hours per week, instead of 40 hours per week, but she was not able to begin this reduced schedule until March 1, 2016, due to the employer's internal policy about schedule changes.

The day claimant resigned, the employer offered to reduce her hours further. Claimant declined this offer, as she and her healthcare provider believed she needed to quit her employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment for no disqualifying reason. Benefits are allowed.

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)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. 871-24.26(6)b 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:

(6) Separation because of illness, injury or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is

reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

In 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement added to rule 871-24.26(6)(b), the provision addressing work-related health problems. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

When the injury or illness leading to separation is related to the employment, the claimant must (a) present competent evidence showing health reasons to justify termination; (b) before quitting, inform the employer of the work-related health problem; and (c) inform the employer the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Iowa Admin. Code r. 871-24.26(6)(b). "Reasonable accommodation" is "other comparable work which is not injurious to the claimant's health and for which the claimant must remain available." *Id.*

Iowa Code § 216.6 (previously 601A.6) requires employers to make "reasonable accommodations" for employees with disabilities. Reasonable accommodation is required only to the extent that refusal to provide some accommodation would be discrimination itself. Reasonableness is a flexible standard measured in terms of an employee's needs and desires and by economic and other realities faced by the employer. *Sierra v. Emp't Appeal Bd.*, 508 N.W.2d 719 (Iowa 1993). See also, *Foods, Inc. v. Iowa Civil Rights Comm'n*, 318 N.W.2d 162 (Iowa 1982) and *Cerro Gordo Care Facility v. Iowa Civil Rights Comm'n*, 401 N.W.2d 192 (Iowa 1987).

The claimant has not established that the injury was caused by the employment but did establish that the medical condition would be aggravated by the work duties. Furthermore, the treating physician specifically advised claimant not to return to work. While the employer granted claimant an initial accommodation by allowing her to work a reduced schedule, it took the employer several weeks to grant this request. The employer's offer to reduce claimant's schedule further was not reasonable for claimant, as her healthcare provider had advised her to end her employment.

Because claimant's medical condition was aggravated by the working conditions, the decision not to return to the employment according to the treating medical professional's advice was not a disqualifying reason for the separation. Benefits are allowed.

DECISION:

The April 18, 2016, (reference 01) unemployment insurance decision is reversed. Claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

Elizabeth Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/css