

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

KATHERINE L SNIDER
Claimant

APPEAL NO: 17A-UI-12835-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

LINK ASSOCIATES
Employer

**OC: 11/26/17
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 11, 2017, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on January 25, 2018. The claimant participated in the hearing with Attorney Aaron Vaughn. Jay Bruns, Corporate Operations Director; Robin Stewart, Human Resources Manager; Valerie Swager, Supported Living Director; and Simon Urungu; participated in the hearing on behalf of the employer. Claimant's Exhibits A through J and Employer's Exhibits 1 through 10 were admitted into evidence.

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 residential counselor for Link Associates from June 8, 2001 to November 14, 2017. She voluntarily left her employment by failing to return from Family and Medical Leave.

The claimant requested and was granted FMLA from August 13 through October 31, 2017, because she was adopting two of her grandchildren. She also requested vacation from November 11 through November 26, 2017. Her vacation request was denied because she exhausted her paid time off.

On October 20, 2017, the claimant contacted the employer and asked to extend her FMLA due to medical issues. She also stated she needed to change her hours. On October 23, 2017, the employer sent the claimant the required paperwork to request additional leave. The employer also informed the claimant that the personal leave request is not automatically granted like FMLA and indicated the claimant should plan to return to her current shift unless she applied for a different position and the transfer request is granted. On November 2, 2017, the employer spoke to the claimant to let her know it had not received any of the paperwork required to grant

her a personal leave and she should plan to report for work Sunday, November 5. The employer followed that phone call with an email November 3, 2017, stating that if the claimant did not provide the required medical paperwork she was expected to report to work November 5, 2017. The claimant called her supervisor November 4, 2017, and reported she would not be at work November 5 or 6, 2017. On November 9, 2017, the employer attempted to reach the claimant by phone but was forced to leave a voice mail message and send an email reminding the claimant absent the medical documentation she needed to report for work November 12, 2017, and continue to work her shifts as scheduled unless she provides the required medical documentation. The claimant called and reported she would not be at work November 12 or 13, 2017. The employer consequently determined the claimant voluntarily quit her job by failing to return from FMLA or provide the required medical paperwork excusing her from work for November 5, 6, 12 or 13, 2017.

The claimant stated she was suffering from several medical conditions but could not find a doctor willing to complete her paperwork for an extended medical leave. She was restricted to lifting 10 pounds with her left arm and nothing with her right arm January 8, 2017, but neither her primary care physician, Des Moines Orthopedic Surgeons center or her pain center would take her off work due to her medical issues prior to January 8, 2017, when her primary care physician imposed restrictions on her activities but did not state she was unable to work.

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 section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

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.

In this case the claimant exhausted her FMLA October 31, 2017, after asking for the time off due to adopting two of her grandchildren. As the end of her leave neared, she asked for additional personal leave due to medical issues but could not find a physician to complete the required paperwork stating she needed to be off work for the employer and the employer could not simply grant the personal leave without the required medical paperwork. It is not reasonable to believe that if her medical conditions warranted it that the claimant could not find one physician to complete the medical paperwork stating the claimant needed additional time off.

Under these circumstances, the administrative law judge must conclude the claimant voluntarily left her employment by failing to return from FMLA and failing to provide medical certification that she needed additional time off. Therefore, benefits must be denied.

DECISION:

The December 11, 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