

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

IRENA VILENICA
Claimant

BIOLIFE PLASMA LLC
Employer

APPEAL 20A-UI-07539-HP-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 05/17/20
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Claimant Irena Vilenica filed an appeal from a June 30, 2020 (reference 02) unemployment insurance decision that denied benefits based upon her discharge from employment with Biolife Plasma LLC (“Biolife”). Notices of hearing were mailed to the parties’ last known addresses of record for a telephone hearing scheduled for August 10, 2020. The employer’s representative did not receive the claimant’s exhibits before the hearing and requested the hearing be rescheduled. The parties agreed the hearing could be held on August 13, 2020, at 3:00 p.m. Attorney Jordan Talsma represented Vilenica. Vilenica appeared and testified. Tanis Minters represented Biolife. Cayla Wessley and Justin Hall testified on behalf of Biolife. Exhibits 1 through 5 were admitted into the record. I took administrative notice of the claimant’s unemployment insurance benefits records maintained by Iowa Workforce Development.

ISSUE:

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause?

FINDINGS OF FACT:

Vilenica commenced full-time employment with Biolife on June 17, 2013. At the time of her separation, she was working as a training supervisor. Vilenica’s immediate supervisor was Clint Marler. Marler is no longer with Biolife.

Vilenica worked for Biolife on March 19, 2020. On March 23, 2020 she was absent from work. Vilenica filed a claim for short-term disability benefits with Lincoln Financial on March 24, 2020. Biolife outsources all short-term and long-term disability claims to Lincoln Financial.

On May 13, 2020, Lincoln Financial denied Vilenica’s application for short-term disability. Vilenica appealed the determination. On June 26, 2020, the denial was reversed on appeal. Vilenica was approved for short-term disability benefits from March 23, 2020 through May 11, 2020.

Before Vilenica’s claim was approved, on May 18, 2020, Hall sent Vilenica a letter stating she had not worked since March 19, 2020, her short-term disability claim had been denied for failure to

provide supporting medical documentation, and Biolife considered her to be out of work on an unapproved leave of absence. (Exhibit 1) Hall stated Biolife had not received medical documentation regarding her absences March 10, 2020 through March 12, 2020, and noted because she had not provided the documentation, Biolife considered the absences unexcused and she was receiving a final warning for attendance. (Ex. 1) The letter further provided, “[y]ou will have until Friday, May 22nd to submit medical documentation to Lincoln Financial to support your appeal of denial for Short-Term Disability. Failure to do so will result in your absences being subject to the BioLife attendance policy. According to our employee handbook this would result in termination of your employment.” (Ex. 1) Vilenica testified based on this letter she believed she had been discharged. Wessley and Hall testified Biolife did not discharge Vilenica. In accordance with the letter, Vilenica provided medical documentation to Lincoln Financial and she was not discharged. The letter did not say she would be discharged for failing to provide medical documentation regarding her absences, which she testified she provided to Marler.

Vilenica received a release to return to work from her physician on May 11, 2020, the date her short-term disability benefits ended. Vilenica testified she spoke with Stephanie from Lincoln financial and she told her she could not return to work. Vilenica also stated she had text message and voice discussions with Marler, her supervisor, asking to return to work. While I do not believe Vilenica was being forthcoming at hearing and I question the veracity of her statements given she did not answer my questions directly at hearing, her testimony is unrebutted. And while I did find testimony of Wessley and Hall credible, Biolife did not subpoena Marler to testify at hearing.

Vilenica voluntarily resigned from her employment with Biolife on July 22, 2020, pursuant to an agreement with her counsel, Jordan Talsma and Biolife’s counsel.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides an individual “shall be disqualified for benefits, regardless of the source of the individual’s wage credits: . . . If the individual has left work voluntarily without good cause attributable to the individual’s employer, if so found by the department.” The Iowa Supreme Court has held a “voluntary quit” means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer.” *Wills v. Emp’t Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989). A voluntary quit requires “an intention to terminate the employment relationship accompanied by an overt act carrying out the intent.” *Peck v. Emp’t Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). “Good cause” for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm’n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

871 Iowa Administrative Code 24.25(20) and (36) provide:

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 following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

24.25(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

24.25(36) The claimant maintained that the claimant left due to an illness or injury which was caused or aggravated by the employment. The employer met its burden

of proof in establishing that the illness or injury did not exist or was not caused or aggravated by the employment.

871 Iowa Administrative Code 24.26(6) 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:

24.26(6) Separation because of illness, injury, or pregnancy.

a. Nonemployment related separation. The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.

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 the 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.

There was no evidence presented at hearing Vilenica's condition that resulted in her application for short-term disability benefits was caused or aggravated by her employment with Biolife. Vilenica testified she spoke with Marler and requested to return to work after her physician released her to return to work on May 11, 2020. Marler did not appear at hearing to rebut her testimony. The evidence establishes Vilenica left work on the advice of a licensed and practicing physician and upon recovery, she was certified to return to work and she offered to perform work to Marler, but no work was offered to her. I find Vilenica left employment with good cause attributable to Biolife.

Vilenica voluntarily resigned from her employment with Biolife on July 22, 2020, pursuant to an agreement with her counsel, Jordan Talsma and Biolife's counsel.

DECISION:

The June 30, 2020 (reference 02) unemployment insurance decision denying unemployment insurance benefits is reversed. Unemployment insurance decision denying unemployment insurance benefits is reversed in favor of the claimant/appellant. Benefits are allowed, provided the claimant is otherwise eligible.



Heather L. Palmer
Administrative Law Judge
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August 21, 2020
Decision Dated and Mailed

hlp/scn