

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

HALEEMA H ABDALLA
Claimant

COLES QUALITY FOODS INC
Employer

APPEAL 21A-UI-03171-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/11/20
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting of Employment

STATEMENT OF THE CASE:

On January 15, 2021, the claimant, Haleema H. Abdalla, filed an appeal from the January 12, 2021 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit her employment because she was dissatisfied with her working conditions. The parties were properly notified of the hearing. A telephonic hearing was held on Wednesday, March 17, 2021. The claimant, Haleema H. Abdalla, participated. Sudanese Arabic / English interpreter Hassan (ID number 11896) provided interpretation services for the hearing. The employer, Cole's Quality Foods, participated through Jacqueline Kuster, HR Generalist.

ISSUE:

Did claimant Haleema H. Abdalla quit 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: Claimant was employed full time, most recently as a general help employee for the finish room, from March 9, 2020 until October 1, 2020, when she resigned from employment.

Claimant initially worked for the employer through a temporary service, beginning in late 2019. She was hired on as a full-time employee on March 9. When claimant began her employment, the work environment was suitable for her, and the temperature did not adversely affect her physical health.

In approximately June 2020, the employer turned on additional air conditioners to keep the work environment at the climate-controlled 42-to-45-degree temperature required for food production. At that point, claimant's physical health began to deteriorate. The cold hurt her fingers and arms, and conditions were hard on her heart.

During the summer of 2020, claimant passed out at work due to the cold temperatures. She had to be taken via ambulance from the employer's facility to the hospital. While she was at the

hospital, the doctor told her that she had better find a different job. The doctor said her body was fine but it could not tolerate the cold environment where she worked.

Claimant returned to her employer and asked on multiple occasions to be moved to a different production line that was not on the “cold side” of the facility. She explained that her chest and arms were hurting from the cold. At that point, the employer denied her request. Kuster explained that an employee who wants to move to a different line has to bid into a different position, due to the union. The employer does not have any record of claimant producing any documentation from a physician specifically restricting her from a certain job or from the “cold side” of the facility.

Claimant submitted her resignation letter on September 23, 2020. In her letter, she wrote: “I am leaving because my job is way too cold for me ... I pass out because it was way too cold. And when I went home I [had a temperature] and my chest was hurting and my fingers and arms hurt.” According to Kuster, this letter would not have triggered a conversation about reasonable accommodation, as claimant did not present medical documentation.

The employer offers a reasonable accommodation process. This process is explained in the union contract and the employee handbook. Kuster does not know if either of those resources are available in Sudanese Arabic. Additionally, the reasonable accommodation process is reviewed in an introductory PowerPoint with employees when they begin employment. Kuster did not state whether this presentation was given in Sudanese Arabic. Kuster did not have any information on whether claimant was verbally given information about the reasonable accommodation process.

Claimant speaks primarily Sudanese Arabic. She speaks limited English. Claimant does not read or write English. When asked why she did not bring the employer any medical documentation, claimant explained that she has documentation from her doctor and from the hospital but she cannot read it and does not know what it says.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit her employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible.

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 Admin. Code r. 871-24.26(6)b provides:

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 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.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "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). Where multiple reasons for the quit, which are attributable to the employment, are presented the agency must "consider that all the reasons combined may constitute good cause for an employee to quit, if the reasons are attributable to the employer." *McCunn v. Empl. Appeal Bd.*, 451 N.W.2d 510 (Iowa App. 1989) (citing *Taylor v. Iowa Dept. of Job Serv.*, 362 N.W.2d 534 (Iowa 1985)). "An employee may choose to leave employment for several reasons, with each reason important in the decision to quit." *Taylor*, 362 N.W.2d at 540.

Voluntary quitting within the meaning of section 96.5(1) is attributable to the employer "...[w]hen factors or circumstances directly connected with employment aggravate or cause illness or injury to an employee which makes it impossible for him to continue in the employment..." See, 871 IAC 24.26(6)"b", supra. See also, *McComber v. Iowa Employment Sec. Comm'n*, 254 Iowa 957, 962, 119 N.W.2d 792, 795-96 (1963) (claimant worked with woolen materials to which she developed an allergy). See also *Ellis*, 285 N.W.2d at 156 (claimant was allergic to natural Christmas trees, and one was at place of employment); *Rafferty v. Iowa Employment Sec. Comm'n*, 247 Iowa 896, 900, 76 N.W.2d 787, 789 (1956) (claimant contracted jaundice attributed to an on-the-job back injury). When, however, such voluntary quitting is due to an illness or injury having no connection with the employment, the quitting is not attributable to the employer. Iowa Code § 96.5(1); *Moulton v. Iowa Employment Sec. Comm'n*, 239 Iowa 1161, 1165, 34 N.W.2d 211, 213 (1948) (claimant quit because of pregnancy)

Where illness or disease directly connected to the employment, make it impossible for an individual to continue in employment because of serious danger to health, termination of employment for that reason is involuntary and for good cause attributable to the employer even if the employer is free from all negligence or wrongdoing. *Rafferty v. Iowa Emp't Sec. Comm'n*, 76 N.W.2d 787 (Iowa 1956). In this case, the claimant had an extreme sensitivity to the cold work environment. As a result, the claimant's health condition continued to deteriorate during the summer when the high-powered air conditioners were running. There was no position the employer would allow claimant to take to eliminate exposure to the cold.

Based on this record when viewing it as a whole, the claimant's quit is directly attributable to the work environment, which caused or aggravated her personal health condition. The claimant provided credible, unchallenged firsthand testimony to support her claim. Claimant was being

physically harmed by her freezing work environment. She told her employer multiple times that the environment was adversely affecting her, and she indicated that she would need to end her employment if they did not accommodate her. According to claimant, the employer did not care. While the administrative law judge appreciates that the employer has written policies about accommodation in its union contract and employee handbook, these policies are meaningless if the employer hires employees who cannot meaningfully access them. The employer had notice that claimant had a medical issue with the work environment, at minimum, once claimant passed out at work and was taken to the hospital. That incident should have triggered a conversation about accommodation. For this reason, the administrative law judge concludes that the claimant satisfied her burden of proof. The claimant quit for good cause reasons attributable to the employer. Benefits are allowed.

DECISION:

The January 12, 2021 (reference 01) unemployment insurance decision is reversed. Claimant quit 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.

A handwritten signature in blue ink, appearing to read "Elizabeth Johnson", is written over a light blue rectangular background.

Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
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March 22, 2021
Decision Dated and Mailed

lj/ol