

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FRANCES M BROWN
Claimant

APPEAL NO: 11A-UI-06043-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NATIONWIDE MUTUAL INSURANCE CO
Employer

**OC: 04/03/11
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed a representative's April 25, 2011 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant participated in the hearing. The employer informed the Appeals Section prior to the hearing that the employer would not be participating at the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits?

FINDINGS OF FACT:

The claimant started working for the employer in September 2003. The employer hired her to work as a retention agent. The claimant did not like this job and transferred to another job as a member of the customer value team in 2008. In late 2009, new management eliminated the customer value team positions and the claimant again worked as a retention agent.

As a retention agent, the claimant was also required to do sales and had to meet certain goals. The claimant found this job stressful. The stress of the job aggravated a medical condition she had. As a result of the stress and aggravation of her medical condition, the claimant's family doctor restricted her from work and indicated she needed to go on short-term disability. (The claimant did not have any FMLA time available.) The claimant went on short term disability on October 8, 2010.

In an attempt to get her medical condition under control, the claimant went to a specialist, Dr. Larson, on November 17, 2010. When the claimant saw Dr. Larson, she told him she was on short-term disability. He gave her new medication to try. After seeing Dr. Larson, the claimant understood she was to try the new medication and experiment with the dosage. She had no understanding she was to return to work and did not.

In December 2010, a nurse who worked for the employer and managed the claimant's short term disability case contacted the claimant and asked her why she had not returned to work. This nurse understood Dr. Larson had released the claimant to return to work on November 17. The claimant contacted Dr. Larson's office and learned that since he had not put her on short term disability it was not his responsibility to send her back to work and he would not talk to the managing nurse. As a result of the nurse contacting her, the claimant felt pressured to return to work. The claimant's family doctor released her to return to work on December 28, 2010.

On her way to work on December 28, the claimant had an episode related to her medical condition and had to return home. After she was back at home, she contacted her supervisor, Rick Wood, and explained what had happened. The claimant then resigned effective immediately because she concluded the employer would either discharge her that day or would be discharging her in the near future. The claimant also considered the nurse's actions - asking her why she had not returned to work when Dr. Larson indicated she could – as inconsiderate and she did not want to work as a retention agent.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6(2).

The claimant asserted she quit in part because the stress of working as a retention agent aggravated her health to the extent she could not work. Unfortunately, the claimant did not satisfy 871 IAC 24.26(6)(b), which sets forth the requirements a claimant must establish to be eligible if she quits because the employer aggravates a medical condition to the extent continued employment would seriously jeopardize the claimant's health.

The law presumes a claimant voluntarily quits without good cause when she leaves because she does not believe her work performance is satisfactory even though the employer has not asked the claimant to leave. 871 IAC 24.25(33). The claimant suspected the employer would discharge her on December 28 or would in the near future. The evidence does not establish that when the claimant resigned on December 28 the employer had made any decision to discharge her.

The claimant's frustration that was caused because of conflicting information or view points of the nurse that managed her short term disability and Dr. Larson is understandable. Even though this was frustrating, the claimant's physician released her to return to work as of December 28, 2010. The bottom line is that the claimant did not want the stress of working as a retention agent and she quit. The claimant established compelling reasons for quitting, but while this was the "best" decision for the claimant, the reasons for her quitting do not qualify her to receive benefits. As of April 3, 2011, the claimant is not qualified to receive benefits.

DECISION:

The representative's April 25, 2011 determination (reference 01) is affirmed. The claimant voluntarily quit her employment for personal reasons that do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of April 3, 2011. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs