

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRITTANY M RIDGWAY
Claimant

APPEAL NO: 17A-UI-10617-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

A & R LAND SERVICES INC
Employer

OC: 09/24/17
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant, filed a timely appeal from a representative's decision dated October 10, 2017, reference 01, which denied unemployment insurance benefits finding that the claimant left employment on February 3, 2017, without good cause attributable to the employer because of a non-work related illness or injury. After due notice was provided, a telephone conference hearing was held on November 2, 2017. Claimant participated. The employer participated by Mr. Ryan Gurwell, Company President.

ISSUE:

At issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds that: Brittany Ridgway began employment with A & R Land Services, Inc. on July 11, 2016. Ms. Ridgway was employed as an Administrative Assistant and was paid by the hour. Her immediate supervisors were Andy and Ryan Gurwell. Ms. Ridgway's last day worked with A & R Land Services, Inc. was December 28, 2016.

On the morning of December 29, 2016, the claimant suffered a stroke and was hospitalized for approximately 30 days. The claimant's mother informed the company of the claimant's inability to work because of her non work related medical condition. The company informed Ms. Ridgway's mother that the claimant had 120 hours of PTO available to her and that the company would, in effect, keep claimant's job open for her pending her later recovery and medical release without restrictions to return to full-time work. Although the claimant did not call in each day or initiate contact with the employer, the company understood the reason for the claimant's absences and kept her job available for the claimant upon her return.

Because the claimant had exhausted all personal time off and was not being paid by the company or receiving any pay, the company's insurance carrier required the company to send a letter to the claimant informing her that if she elected to continue on the company's insurance plan, payment would be required from Ms. Ridgway. The claimant elected not to use the company's insurance thereafter because she was receiving Medicaid.

By February 3, 2017, Ms. Ridgway had made some medical improvement and requested to meet with the company. Because the claimant had been released by her doctor only to work part-time, working two hours or less per day and wanted only part-time work, the company was unable to accommodate the claimant's request for limited part-time work. Ms. Ridgway was advised to continue therapy, the employer informed the claimant that it would keep her job available for an extended period pending her release to full-time employment.

By December 17, 2016, the claimant had made sufficient medical progress to be released by her physician to return to full-time work. Ms. Ridgway elected not to inform the employer of her medical release and did not attempt to return to work with the company because she was generally dissatisfied with the company owner because of other employment in the past.

Ms. Ridgway opened a claim for unemployment insurance benefits with an effective date of September 24, 2017 after being fully released by her physician. Claimant did not contact A & R Land Services, Inc. to inform them that she had been fully released and did not contact the company to return to work.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

Iowa Admin. Code r. 871-24.25(35) provides:

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 employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (d) Fully recover so that the claimant could perform all of the duties of the job.

In this matter, the evidence establishes that the claimant discontinued reporting for scheduled work as of September 29, 2017 due to a non-work related illness or injury. Claimant suffered a stroke and was hospitalized for an extended period. After being notified of the reason for the claimant's absence, the employer allowed the claimant to use PTO time to cover for first 120

hours of absences, and then placed the claimant in non-work status, holding her job open for her pending her later full release to return to work. On February 3, 2017, the employer sent the claimant a letter informing her of her option to continue her insurance by self-payment and Ms. Ridgway declined the offer.

Subsequently, in April, 2017, the claimant's physician changed her medical restrictions and allowed claimant to return to part-time work, working two hours or less each day. The employer did not accommodate the request to return to work on a limited basis because her medical condition was not work-related. Claimant was specifically advised that the company would hold the job open for Ms. Ridgway and advised the claimant to contact the company to resume employment when she was fully released from her physician.

Although Ms. Ridgway was fully released by her physician to return to work in September 2017, Ms. Ridgway did not contact A & R Land Services, Inc. to return to work, but instead opened a claim for unemployment insurance benefits with an effective claim date of September 24, 2017. The claimant chose not to return to the employer and reclaim her job position after being fully released by her doctor because of personal dissatisfaction with the company owners regarding another matter.

The evidence in the record establishes that the claimant had little desire to remain in a relationship with A & R Land Services, Inc., the claimant elected not to return to the employer and offer her services upon recovery and certification of non-work related illness or injury, although the claimant was fully recovered and could perform all the duties of the job. Although the employer had indicated that they would hold her job open for her pending her full recovery.

The evidence establishes that the claimant had fully recovered and could perform all her duties of her previous employment as the effective date of her claim or the claimant had not satisfied the requirements of the above stated administrative code (r. 871-24.25(35), she is disqualified for unemployment insurance benefits until she has worked and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

DECISION:

The representative's decision dated October 10, 2017, reference 01, is affirmed. The claimant voluntarily left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided claimant is otherwise eligible.

Terry P. Nice
Administrative Law Judge

Decision Dated and Mailed

tn/scn/rvs