

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NICOLE J KEATE
Claimant

ADVANCE SERVICES INC
Employer

APPEAL 17A-UI-08046-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/21/17
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 7, 2017 (reference 09) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit working for personal reasons. The parties were properly notified of the hearing. A telephone hearing was held on August 25, 2017. The claimant, Nicole J. Keate, participated. The employer, Advance Services, Inc., participated through Melissa Lewien, Risk Manager. Employer's Exhibits 1 through 4 were received and admitted into the record without objection. The administrative law judge took official notice of the administrative record.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to 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 temporary employee assigned to work at Cardinal Glass, from June 11, 2015 until April 28, 2017, when she quit because she was going to have a baby. Claimant notified the employer on or about April 3, 2017, that her last day working would be April 28, 2017. Claimant was due to give birth on May 20, and she wanted some time off before her due date to prepare for her child's birth. Continued work was available, had claimant not quit her job. Claimant was eligible for job-protected unpaid leave, but she chose to quit instead.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

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. 871-24.25 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: ...

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation.

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). Here, claimant chose to resign from her employment to prepare for the birth of her first child. While this was certainly a compelling personal reason to leave her job, it was not a good-cause reason fairly attributable to her employer. A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). Claimant notified her employer that she was resigning and she was allowed to work through her notice period. Claimant has not established that her separation was with good cause attributable to the employer. Benefits are withheld.

DECISION:

The August 7, 2017 (reference 09) unemployment insurance decision is affirmed. Claimant separated from 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.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn