

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TAMMY L HARMS
Claimant

APPEAL 16A-UI-04987-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IA DEPT OF HUMAN SVCS/GLENWOOD
Employer

**OC: 07/05/15
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 27, 2016, (reference 06) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on May 12, 2016. The claimant, Tammy Harms, participated and testified. The employer, Iowa Department of Human Services, participated through hearing representative, Larry Lampel, and treatment program administrator, Kathy King.

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 as a residential treatment worker from October 19, 2015, until this employment ended on April 25, 2016, when she voluntarily quit.

Claimant's job duties required her to work additional mandated hours (mandatory overtime). When claimant was hired in her position she was advised of this requirement. Several months into her job, claimant found her commute was aggravating her preexisting conditions of anxiety and hypertension. Claimant testified that it was not the work itself, but her long commute that was causing her issues. Having to work additional mandated hours made the commute even more difficult to handle. On December 22, 2015, claimant informed the employer she needed a reasonable accommodation in the form of no mandated hours. This request was granted for the next several months, while the employer was working with claimant through the interactive process. On March 25, 2016, the employer informed claimant that she would need to be off work until she could perform all of her job duties, including working additional mandated hours. Claimant had available sick time, so she was placed on leave with pay.

On April 8, 2016, claimant saw her doctor who agreed to release her to try working preplanned mandated hours. The employer told claimant it wanted her to have all of her restrictions lifted prior to returning and wanted clarification from claimant's doctor on her most recent instructions. The employer asked for permission to speak to her doctor, which was granted. On April 11,

2016, before the employer could speak to claimant's doctor, she submitted her resignation via email. Claimant resigned at this time because she had become frustrated with the employer's unwillingness to let her return to work and feared her available paid time off would run out before she would be allowed to return.

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(30) 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 § 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 § 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:

(30) The claimant left due to the commuting distance to the job; however, the claimant was aware of the distance when hired.

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). 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 was having difficulty adjusting to her position based on the effect the commute was having on several preexisting positions. Claimant knew what the commute would be and that she would be required to work mandatory overtime hours at the time she accepted the position. Claimant resigned her position because she became frustrated with the employer while working through the interactive process to address the issues she was having. While claimant's leaving may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The April 27, 2016, (reference 06) unemployment insurance decision is affirmed. The claimant voluntarily left her 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.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/pjs