

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**STACIE L MITCHELL-GWEAH**  
Claimant

**APPEAL 17A-UI-09997-NM-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DES MOINES IND COMMUNITY SCH DIST**  
Employer

**OC: 09/03/17  
Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the September 22, 2017, (reference 01) unemployment insurance decision that denied benefits based on her voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on October 16, 2017. The claimant participated and testified. The employer participated through Benefits Specialist Rhonda Wagoner. Employer's Exhibits 1 and 2 were received into evidence.

**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 high school teacher. Claimant was employed from October 19, 2007, until this employment ended on May 31, 2017, when she voluntarily quit. Claimant had been in her most recent position since the start of the 2016/2017 school year.

On April 3, 2017, claimant submitted her written resignation, to be effective May 31, 2017. (Exhibit 1). Claimant noted she was resigning for personal and health reasons. Claimant testified she suffers from fibromyalgia, and that her symptoms are aggravated by stress. Claimant found she was having more flare-ups due to work-related stress. Claimant testified this stress was caused primarily with frustrations ranging from lack of funding for proper equipment in the classrooms, to overcrowded classrooms, to issues with truancy, and even safety and mortality of her students. The employer agreed these issues were common within the district and to claimant's school especially, but that these were frustrations experienced universally by its employees.

In speaking with her counselor, claimant was advised that it would probably be best if she found other employment, though she was not specifically told it was medically necessary for her to do so. Claimant did not mention her fibromyalgia to the employer prior to resigning, nor did she make specific requests for a medical accommodation. The employer did not learn of claimant's

medical condition until April 25, 2017, when a Family Medical Leave Act request was made for her to have the remainder of the school year off. (Exhibit 2). Had claimant not resigned on April 3, 2017, work would have been available to her the following school year.

**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 section 96.5-1-d 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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

871 IAC 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.

The court in *Gilmore v. Empl. Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004) noted that:

"Insofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." *White v. Emp't Appeal Bd.*, 487 N.W.2d 342, 345 (Iowa 1992) (citing *Butts v. Iowa Dep't of Job Serv.*, 328 N.W.2d 515, 517 (Iowa 1983)).

In 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement added to rule 871-24.26(6)(b), the provision addressing work-related health problems. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Claimant decided to resign her position when stress aggravated an underlying medical condition, fibromyalgia. Claimant spoke to her doctor and counselors about her symptoms. Claimant's counselor indicated it would probably be best to find other work but did not advise her it was medically necessary for her to resign. Claimant did not speak to the employer about her medical condition prior to resigning and did not request a medical accommodation. The employer testified work would have continued to be available to claimant had she not resigned. Claimant has not established that the medical condition was caused by her work or that treating medical personnel advised her to quit the job, as is her burden. Furthermore, claimant did not advise the employer of or request an accommodation from the employer before quitting. 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 September 22, 2017, (reference 01) 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.

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Nicole Merrill  
Administrative Law Judge

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Decision Dated and Mailed

nm/scn