

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SHELBEЕ R BALLINGER
Claimant

ISU VETERINARY SERVICES CORPORATI
Employer

APPEAL 22A-UI-10722-DB-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 04/03/22
Claimant: Appellant (5)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.4(3) – Able to and Available for Work

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the April 26, 2022 (reference 01) unemployment insurance decision that denied benefits based upon her voluntarily quitting work without good cause attributable to the employer. The parties were properly notified of the hearing. A telephone hearing was held on June 14, 2022. The claimant participated personally. The employer participated through witness Audra Brady. Both parties waived due notice of the issue of able to and available for work pursuant to Iowa Code § 96.4(3). The administrative law judge took official notice of the claimant’s unemployment insurance benefits records.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Was the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as customer service representative from May 25, 2021 through March 25, 2022. Claimant had a stroke on March 13, 2022 and was unable to work until her doctor released her without restrictions on May 1, 2022. Claimant spoke to Ms. Brady via telephone on March 25, 2022 and was informed that she did not have any further time off and was not covered by the Family and Medical Leave Act (FMLA). Claimant tendered her verbal resignation to Ms. Brady. Claimant recovered on May 1, 2022 and has been looking for work since then but did not return to this employer to offer her services.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Claimant had an intention to quit and carried out that intention by tendering her resignation. As such, 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).

Iowa Code § 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.

(emphasis added).

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.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

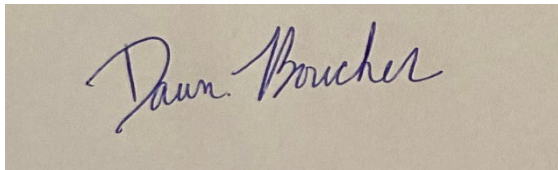
3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.1A,

subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

In this case, the claimant voluntarily quit due to personal medical conditions and never returned to the employer to offer her services. As such, the claimant's voluntary quitting was not for a good-cause reason attributable to the employer according to Iowa law. Further, the claimant was not able to and available for work from April 3, 2022 through April 30, 2022 due to her personal medical injury. Benefits must be denied for both of those reasons.

DECISION:

The April 26, 2022 (reference 01) unemployment insurance decision is modified with no change in effect. Claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits are denied until the claimant has worked in and earned wages for insured work equal to ten times her weekly benefit amount after her March 25, 2022 separation date, and provided she is otherwise eligible. Benefits are also denied from April 3, 2022 through April 30, 2022 as the claimant was not able to and available for work during those weeks due to injury.

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Dawn Boucher
Administrative Law Judge

June 22, 2022
Decision Dated and Mailed

db/db