

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SELEMAWIT KIBREAB

Claimant

APPEAL 21A-UI-01333-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS ENTERPRISES INC

Employer

OC: 08/02/20

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting of Employment

Iowa Code § 96.5(1)d – Voluntary Quitting Due to Illness

Iowa Admin. Code r. 871-24.25(17) – Voluntary Quitting Due to Lack of Childcare

STATEMENT OF THE CASE:

On December 11, 2020, the claimant filed an appeal from the December 4, 2020 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit her employment due to personal reasons. The parties were properly notified of the hearing. A telephonic hearing was held on February 17, 2021. The claimant, Selemawit Kibreab, participated. The employer, Wells Enterprises, Inc., participated through Stacey Roupe, HR Service Center Representative. Tigrinya/English Interpreter Yodit Abraham (ID number 10039) provided interpretation services for the hearing. The administrative law judge took official notice of the administrative record, which encompasses all of the attachments to Claimant's appeal.

ISSUE:

Did Claimant Selemawit Kibreab voluntarily quit her employment without good cause attributable to the 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 CAT-B helper, from March 18, 2019 until April 6, 2020, when she quit her employment.

On January 24, 2020, Claimant went on medical leave to prepare to give birth. Claimant gave birth on February 16, 2020. After her baby was born, Claimant had medical issues relating to the birth. Additionally, there were no daycares available for an infant, due to the emerging pandemic. Therefore, she was unable to come back to work. Claimant applied for an extension of leave, but this was denied by the employer's third-party servicer due to lack of documentation.

On April 6, 2020, someone called Claimant and instructed her to come back to work. At that point she had the discussion with the employer that the pandemic prohibited her from leaving

her child anywhere. Therefore, she was not able to return to her job. Continued work was available, had Claimant not quit.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Claimant's separation is without good cause attributable to the employer. Benefits are withheld.

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 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.

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: ...

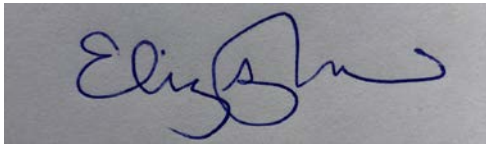
(17) The claimant left because of lack of child care.

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).

In this case, Claimant was not able to return to work at the end of her maternity leave in April 2020. She was having personal medical issues, and she had no child care for her infant. These are certainly compelling personal reasons to leave employment. However, they are not reasons that are fairly attributable to the employer. While claimant's leaving the employment 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 must be denied.

DECISION:

The December 4, 2020 (reference 01) 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.

A rectangular box containing a handwritten signature in blue ink. The signature appears to be "Elizabeth A. Johnson" written in a cursive style.

Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

March 1, 2021
Decision Dated and Mailed

lj/scn