

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

PAULA K GARRISON
Claimant

APPEAL NO. 14A-UI-06850-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

RUAN TRANSPORT CORP
Employer

OC: 06/01/14
Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Paula Garrison filed a timely appeal from the June 23, 2014, reference 02, decision that disqualified her for benefits. After due notice was issued, a hearing was held on July 24, 2014. Ms. Garrison participated. Ken Baird represented the employer. Exhibits One and Two were received into evidence.

ISSUE:

Whether Ms. Garrison's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Paula Garrison was employed by Ruan Transport Corporation as a full-time billing clerk from July 2013 until April 30, 2014, when she voluntarily quit by ceasing to appear for work or make further contact with the employer. Ms. Garrison's usual work hours were 8:00 a.m. to 5:00 p.m., Monday through Friday. Ms. Garrison's immediate supervisor was Ken Baird, Credit Manager. On April 30, 2014, Ms. Garrison sent Mr. Baird an email at 6:20 a.m.:

Like I said yesterday, we have a lot of water in our basement. I am working with trying to get it cleaned up this morning and have been half of the night. I will be in shortly but wanted to let you know that it probably won't be until later than 8 AM. I will definitely make up my time.

Ms. Garrison did not report for work or make further contact with the employer. At 5:05 p.m. on May 1, Mr. Baird sent Ms. Garrison the following email:

You contacted me the morning of Wednesday, April 30, 2014 to notify me that you would be an hour late to work due to water in your basement. When you did not report or contact me I sent you an email with no response from you. Today you did not call me or show up for work either. I called each of your contact numbers we have on file for you but was unable to reach you. Due to the fact that you have not been in contact with me

nor reported to work for the past two days Ruan is considering this a voluntary resignation effective today, May 1, 2014.

You can arrange pick up of any personal belongings you may have her by contacted me at (515) 245-2762. At that time we will also need to collect your employee badge and parking pass, if you have one.

Please contact me on Friday to discuss the above arrangement.

In February 2014, a nurse practitioner diagnosed Ms. Garrison with anxiety and prescribed anti-anxiety medication. Ms. Garrison attributed her anxiety to the employment. Though Ms. Garrison asserts that the nurse practitioner recommended at the start of April 2014 that she leave the employment, Ms. Garrison did not quit at that time. Ms. Garrison did not provide the employer with any medical documentation concerning any medical or mental health condition. Ms. Garrison never mentioned to the employer that a health care provider had recommended that she leave the employment. Ms. Garrison never told the employer that she was going to quit if the employer did not accommodate a medical or mental health condition.

Ms. Garrison was assigned to assist two other employees. Ms. Garrison found one of those employees, Julie Williamson, difficult to deal with. Ms. Garrison needed to complete a step in the billing process before Ms. Williamson could perform her step in the billing process. When competing duties took Ms. Garrison away from the billing duties, Ms. Williamson voiced her dissatisfaction with Ms. Garrison's work performance. Ms. Williamson did not yell, did not use profanity, and did not otherwise engage in abusive or harassing behavior. A week before Ms. Garrison quit, Ms. Williamson complained to Mr. Baird that Ms. Garrison was not doing her job. Mr. Baird addressed the matter with all parties concerned and believed the situation to be resolved. Ms. Garrison had a good relationship with Mr. Baird and knew that Mr. Baird was willing to address any concerns she had. Mr. Baird did not have concerns with Ms. Garrison's work performance. At the time Ms. Garrison ceased appearing for work, the employer continued to have work for her.

REASONING AND CONCLUSIONS OF LAW:

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.

Workforce Development rule 817 IAC 24.26(6) provides as follows:

Separation because of illness, injury, or pregnancy.

a. Nonemployment related separation. The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Ms. Garrison has failed to present sufficient evidence to establish a medically based quit that would be for good cause attributable to the employer. Ms. Garrison has presented insufficient evidence to establish that she had a condition that made it necessary for her to leave the employment. Ms. Garrison presented insufficient proof to establish that her quit was indeed based on the advice of a licensed and practicing health care provider. Ms. Garrison provided not medical documentation to the employer to support the need to quit due to a medical condition. Ms. Garrison presented no such documentation for the appeal hearing. Prior to quitting, Ms. Garrison did not tell the employer that she would quit unless she was provided with accommodations for a medical condition.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See Hy-Vee v. EAB, 710 N.W.2d (Iowa 2005).

On the other hand, quits due to an inability to work with other employees or due to dissatisfaction with the work environment are presumed to be without good cause attributable to the employer. See Iowa Admin. Code r. 871-24.25(6) and (21).

The weight of the evidence fails to establish intolerable and detrimental working conditions that would have prompted a reasonable person to quit the employment. Though the evidence indicates that Ms. Williamson made her dissatisfaction with Ms. Garrison's work performance known, Ms. Williamson did not yell, did not use profanity, and did not otherwise engage in abusive or harassing behavior. Ms. Garrison had a good relationship with Mr. Baird and knew that Mr. Baird was willing to address any concerns Ms. Garrison had.

The weight of the evidence establishes voluntarily quit for personal reasons, without good cause attributable to the employer. Accordingly, Ms. Garrison is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits.

DECISION:

The claims deputy's June 23, 2014, reference 02, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css