

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KATE N ALLEN
Claimant

BONDURANT DENTAL CENTER PLLC
Employer

APPEAL 15A-UI-04173-JCT
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/08/15
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 25, 2015, (reference 01) unemployment insurance decision that denied benefits based upon separation. The parties were properly notified about the hearing. A telephone hearing was held on May 15, 2015. The claimant participated. The employer participated through Steven Neville.

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: The claimant was employed full-time as a dental assistant and was separated from employment on May 11, 2015.

On March 5, 2015, the claimant and her manager, Steven Neville met. During the conversation, the claimant was informed she ought to look for a new job but she could remain employed until she found a new job. There was no end date that she had to leave or the employment would end. The employer based on the decision because the claimant wasn't happy and Mr. Neville didn't think she liked him. The claimant texted her manager that her last day would be May 12, but elected to leave May 11, 2015 instead. The day selected was based on the fact the claimant was newly pregnant and was concerned about a future employer wanting to grant maternity leave. She had not yet secured employment with another company. The claimant based her reasons to leave because she felt Mr. Neville had been unprofessional by discussing his relationships in front of her, sharing a hotel room with female employees in October 2014 during a work trip, and for allegedly touching a patient's breast in her presence. Prior to resigning, the claimant did not bring any concerns to Mr. Neville or that she was contemplating resignation.

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(3), (22), (21), (27) 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:

(3) The claimant left to seek other employment but did not secure employment.

(22) The claimant left because of a personality conflict with the supervisor.

(21) The claimant left because of dissatisfaction with the work environment.

(27) The claimant left rather than perform the assigned work as instructed.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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).

In this case, the employer initiated the discussion of securing future employment with the claimant but allowed her to continue working. There was no end date for her to find a new job or leave, and so the decision of separation was up to the claimant. If she had wanted to remain employed, she could have, or could have taken her time to secure a new job while remaining employed. The claimant offered no reason as to why she would not continue working until future work was secured, so there would be no gap in employment. The credible evidence presented was that continuing work was available.

The claimant would have remained employed had Mr. Neville not questioned the claimant's happiness in the March 5, 2015 discussion. The claimant testified she believed Mr. Neville was unprofessional in his conduct, but did not quit following any of the incidents she referenced to with respect to his relationships or interactions with employees and patients. Given the stale dates of the complaints, they are not individually addressed as the claimant acquiesced to them by not raising concerns with her supervisor or quitting earlier when they arose.

The claimant's decision to quit because she did not agree with the supervisor about various issues was not for a good cause reason attributable to the employer. Benefits are denied.

DECISION:

The March 25, 2015, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left the 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.

Jennifer L. Coe
Administrative Law Judge

Decision Dated and Mailed

jlc/pjs