IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

BARBARA B ALLEN
Claimant

BIOLIFE PLASMA LLC
Employer

APPEAL NO. 09A-UI-14733-JTT

ADMINISTRATIVE LAW JUDGE DECISION

OC: 09/06/09
Claimant: Appellant (5)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Barbara Allen filed a timely appeal from the September 25, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on October 28, 2009. Ms. Allen participated. Julia Bean, Regional Quality Manager, represented the employer. Exhibit A was received into evidence.

ISSUE:

Whether the claimant'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: Barbara Allen was employed by Biolife Plasma, L.L.C., as a full-time Quality Management Representative (QMR) from November 2008 until September 9, 2009, when she voluntarily quit the employment. Ms. Allen's immediate supervisor was Julia Bean, Regional Quality Manager. Ms. Allen's duties involved reviewing documentation generated by the facility staff for accuracy and compliance with company policies and governmental regulations. Ms. Allen found her duties too stressful. The employer provided other management staff to assist Ms. Allen intermittently with her duties. In July 2009, the employer provided Ms. Allen with an assistant. The assistant was to work 20 hours a week assisting Ms. Allen with routine daily tasks. The assistant ended up working 30 to 40 hours per week assisting Ms. Allen.

On August 24, 2009, Ms. Allen contacted Ms. Bean to express her dissatisfaction with the volume of work, what she perceived as a lack of adequate training and assistance, and interruptions that were inherent to the QMR position. Ms. Bean took the opportunity to tell Ms. Allen she had concerns about Ms. Allen's work performance and her lapses in attention to detail. Ms. Bean told Ms. Allen that she was in the midst of conducting mid-year performance reviews. Ms. Bean told Ms. Allen that because Ms. Allen was not performing to the employer's expectations, Ms. Bean wanted to place Ms. Allen on a performance improvement plan. As part of that plan, Ms. Bean would provide Ms. Allen with additional training and perhaps send her to another Biolife Plasma center for QMR skill development. Ms. Allen told Ms. Bean that she was

thinking about quitting the employment. Ms. Bean encouraged Ms. Allen to further consider the matter and let Ms. Bean know her decision.

On August 25, Ms. Allen sent a letter to Ms. Bean and sent a copy of the letter to the employer's human resources department. In the letter, Ms. Allen raised her concern that she was not receiving enough help in her job and was discouraged.

On September 1, Ms. Bean met with Ms. Allen to discuss Ms. Allen's concerns. Ms. Allen's chief complaints were long hours, time away from her family, personal sacrifices she made for work, and the constant interruptions. Ms. Bean told Ms. Allen that the interruptions were part of the position. Ms. Allen reiterated that she was thinking about quitting. Ms. Bean encouraged Ms. Allen to consider the matter and let Ms. Bean know by September 3 what she intended to do. Ms. Bean told Ms. Allen that if she elected to stay in the employment, she would be placed on the performance improvement plan, would initially have weekly review meetings with Ms. Bean and then would have monthly review meetings until the performance improvement plan expired after three months. Ms. Bean told Ms. Allen that if Ms. Allen was still not performing satisfactorily after the three months of the performance improvement plan, Ms. Allen would be discharged from the employment.

On September 2, Ms. Allen sent Ms. Bean an early morning text message that she would be absent due to a migraine headache.

On September 3, Ms. Allen returned to work. Ms. Bean asked whether Ms. Allen had come to a decision about continuing or ending her employment. Ms. Allen said she had not. Ms. Allen then said she thought she had better resign. Ms. Bean told Ms. Allen that she would need something in writing and that Ms. Allen would need to indicate when her last day would be. Ms. Allen said she would provide a week's notice despite Ms. Bean's request that she stay longer. Ms. Allen prepared a written resignation and delivered it to Ms. Bean, who accepted the resignation.

Ms. Allen's scheduled last day, pursuant to her resignation letter, was Friday, September 11. On September 7 and 8, Ms. Allen worked only partial days. On September 8, Ms. Allen notified Ms. Bean that she might not work until the end of the week. On September 9, Ms. Allen sent Ms. Bean an e-mail message saying she would not be returning to the employment.

Ms. Allen again expressed concern about her work hours and interruptions. Ms. Allen worked from 30 to 50 hours per week, according to the needs of the business. The employer operates 70 other facilities with Quality Management Representatives performing duties similar to Ms. Allen's.

In her discussions with the employer, Ms. Allen did not cite any medical condition as a factor in her decision to leave the employment. Ms. Allen has issues with anxiety and stress, but has no formal diagnosis. Ms. Allen's doctor had suggested that Ms. Allen find other work. Ms. Allen was experiencing some difficulty sleeping at night.

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.

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).

Though the quit was upon the suggestion of a physician, the weight of the evidence fails to establish a illness that made it necessary for Ms. Allen to leave the employment to avoid danger to her health. The evidence fails to establish there was an actual medical condition at issue and indicates instead that Ms. Allen merely experienced common stress.

The weight of the evidence fails to establish intolerable or detrimental working conditions that would have prompted a reasonable person to leave the employment. The evidence indicates that there were competing responsibilities and distractions inherent in the sort of management position Ms. Allen occupied. The evidence indicates that the employer provided Ms. Allen with necessary support, but could not change the essence of the position to completely alleviate the inherent stressors. The evidence indicates that Ms. Allen voluntarily quit the employment to avoid participating in the performance improvement plan, even though this would have involved the additional support and training Ms. Allen stated she desired. The administrative law judge concludes that Ms. Allen voluntarily quit due to dissatisfaction with the work and the work environments. Quits based on such reasons are presumed to be without good cause attributable to the employer. See 871 IAC 24.25(21).

Ms. Allen voluntarily quit the employment without good cause attributable to the employer. Accordingly, Ms. Allen 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 paid to Ms. Allen.

DECISION:

The Agency representative's September 25, 2009, reference 01, decision is modified as follows. 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.

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James E. Timberland
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs