

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SUSAN D RUTH
Claimant

HOPE HAVEN INC
Employer

APPEAL 15A-UI-12937-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/18/15
Claimant: Appellant (2)

Iowa Code § 96.5(1)d – Voluntary Quitting/Illness or Injury
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 9, 2015, (reference 01) unemployment insurance decision that denied benefits based upon a voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on December 10, 2015. Claimant participated personally and was represented by attorney John Bjornstad. Employer did not participate. Claimant's Exhibit A was received.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Is 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 part-time as an instructor in a day habilitation program working with intellectually disabled adults from January 28, 2013, and was separated from employment on October 16, 2015, when she resigned.

Claimant was experiencing stress in the workplace due to employer being understaffed. Although employer planned to hire additional staff in the future, it had no date by which it would do so.

Due to the stress she was experiencing in the workplace, claimant developed medical conditions. Claimant's doctor attributed her medical conditions to the stress she was experiencing in the workplace. On October 8, 2015, claimant's doctor recommended that claimant resign her employment. On October 9, 2015, claimant informed her supervisor, Travis Sheridan, of her doctor's recommendation. Sheridan asked if there was anything employer could do to cause claimant to reconsider her decision. Claimant spoke with her doctor again and he again recommended she resign her employment. Claimant informed Sheridan of her decision. Sheridan asked claimant to return her keys on October 16, 2015.

Claimant is able and available to work in a different work environment. Claimant has been looking for retail work and has experience in this line of work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment for no disqualifying reason.

A claimant is disqualified from receiving unemployment benefits if the claimant left work voluntarily without good cause attributable to the employer. Iowa Code § 96.5(1). A claimant who resigns for health reasons may be considered to have quit for good cause attributable to employer if certain criteria are met. Iowa Code § 96.5(1)(d). When a claimant resigns because of a health condition related to employment, the claimant is considered to have quit with good cause attributable to the employer if the claimant presents competent evidence showing health reasons related to the work to justify the resignation, and before resigning the claimant informed the employer of the health condition and that he or she intended to quit unless the problem was corrected or a reasonable accommodation was provided. Iowa Admin. Code r. 871–24.26(6)(b). “Reasonable accommodation” is “other comparable work which is not injurious to the claimant’s health and for which the claimant must remain available.” *Id.*

Here, claimant has established she resigned because of a health condition related to her employment. Claimant presented competent evidence showing the health reasons related to work justified resignation. Claimant has established she notified employer of the issue prior to her resignation and employer did not or was not able to adequately respond to her concerns in a way that would allow her to remain employed.

Iowa Code § 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 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, 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".

Claimant established she is able and available to work in a different working environment, such as retail.

DECISION:

The November 9, 2015, (reference 01) decision is reversed. The claimant voluntarily left the employment for no disqualifying reason and she is able to and available for work. Benefits are allowed, provided she is otherwise eligible.

Christine A. Louis
Administrative Law Judge
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Decision Dated and Mailed

cal/pjs