

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANTOINETTE MCWILLIAMS
Claimant

APPEAL NO. 13A-UI-11014-VS

**ADMINISTRATIVE LAW JUDGE
DECISION**

SKYLINE CENTER INC
Employer

OC: 08/18/13
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated September 17, 2013, reference 02, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a hearing was held on October 16, 2013, in Davenport, Iowa. The claimant participated personally. The employer participated by Lisa Hammon, Human Resources Director, and Lynne Hilgendorf, Community Living Director. The record consists of the testimony of Antoinette McWilliams; the testimony of Lisa Hammond; and Employer's Exhibits 1-5.

ISSUE:

Whether the claimant was separated from her employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer provides services to individuals with disabilities. The claimant was hired on December 17, 2012, as a part-time direct care manager. She was promoted to a full-time position in January 2013.

On July 28, 2013, the claimant asked for a medical leave of absence. The claimant had chronic obstructive pulmonary disease. This is not a work-related illness. The claimant's physician told her that she could not work in excessive heat and could not work for more than eight hours per day. The claimant was required to be outside with the individuals for whom she provided care. She had to work 12-hour shifts on the weekend. The employer could not accommodate those restrictions.

The claimant contacted the employer on August 15, 2013. The restrictions were now permanent. The claimant refused to resign and the employer could not accommodate her restrictions. The formal date for the separation of employment was August 21, 2013.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.25(35) 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:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (d) Fully recover so that the claimant could perform all of the duties of the job.

The claimant is not eligible for unemployment insurance benefits. Separations from employment due to a claimant's medical condition are one of the most difficult issues in unemployment insurance cases. The evidence in this case showed that the claimant suffered from chronic obstructive pulmonary disease. The condition is permanent. The claimant's physician placed restrictions on her that made it impossible for her to do the essential functions of her jobs. First the claimant took a leave of absence but her restrictions were still in place when the leave of absence expired. In other words, she was unable to perform all the duties of her job. Given these facts, the claimant is considered to have voluntarily quit her job. Benefits are denied.

DECISION:

The decision of the representative dated September 17, 2013, reference 02, is affirmed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css