

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SHANNA N CLOUSER
Claimant

EAST PENN MANUFACTURING CO INC
Employer

APPEAL 15A-UI-12294-JP-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/18/15
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 3, 2015 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on November 23, 2015. Claimant participated. Employer participated through plant manager Dan Heydt. Claimant's Exhibit A was admitted into evidence with no objection.

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: Claimant was employed full time as a finish floater from October 21, 2013 and was separated from employment on October 20, 2015; when she quit.

On October 20, 2015, claimant called and left a message for the employer that she quit effective immediately. The employer accepted claimant's resignation. Claimant quit because she could no longer perform her job. Claimant's doctor had taken her off of work restrictions but she did not think she could perform her normal job duties.

On August 27, 2014, claimant was placed on work restrictions due to a work-related injury (Claimant's Exhibit A). Claimant was placed on light duty. The employer accommodated claimant's light duty. Claimant's work restrictions were lifted on November 7, 2014 (Claimant's Exhibit A). Claimant returned to full duty. Claimant was placed back on work restrictions on April 21, 2015 (Claimant's Exhibit A). Claimant had the same work restrictions, which were because of the same injury. The employer accommodated claimant's work restrictions and again placed her on light duty. On October 6, 2015, claimant was taken off of work restrictions by her surgeon (Claimant's Exhibit A). The employer then put claimant back on full duty with the same job she had before her work restrictions. Claimant did not obtain a second opinion prior to quitting. The employer had work available for claimant had she not quit.

Claimant does not have any work restrictions by a doctor and has been actively searching for employment since her separation date.

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. Benefits are denied.

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(22), (27), and (37) provide:

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:

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

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

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). 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).

Claimant has been on and off of work restrictions since August 27, 2014 (Claimant's Exhibit A). Every time claimant was placed on work restrictions, the employer provided accommodations for claimant. Claimant was last placed on work restrictions on April 21, 2015 (Claimant's Exhibit A). The employer again provided accommodations for claimant. On October 6, 2015, claimant's surgeon removed her work restrictions and placed her back on full duty (Claimant's Exhibit A). Claimant attempted to work without restrictions but she did not think she could

continue working without any work restrictions. On October 20, 2015, after claimant discovered her supervisor was not going to accommodate her injury, she contacted the employer and notified it that she was quitting. The employer accepted claimant's resignation. Claimant quit work even though her doctor had removed her work restrictions.

Claimant's decision to quit because she did not agree with the supervisor not accommodating her injury even though her surgeon removed all work restrictions was not for a good cause reason attributable to the employer. While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The November 3, 2015 (reference 01) unemployment insurance decision is affirmed. 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.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/can