

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NANCY R RENES
Claimant

COGNIZANT TECHNOLOGY SOLUTIONS
Employer

APPEAL 15A-UI-12887-JP-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/08/15
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 16, 2015 (reference 04) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on December 9, 2015. Claimant participated. Employer participated through human resources talent manager Jason Paterson. Human resources senior talent manager Lora Soderholm appeared on behalf of the employer but did not testify.

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 senior process executive-voice from October 5, 2015 and was separated from employment on October 9, 2015; when she quit.

On October 9, 2015, between 9:30 a.m. and 10:00 a.m., claimant turned in her badge to the employer and quit. Claimant did not have any intention of returning to work after October 9, 2015; which is why she turned in her badge. Employees need their badge to gain access to the employer's facility to work. Prior to October 9, 2015, the employer was aware that claimant was frustrated with issues regarding her employee ID. Claimant was frustrated that her employee id had not generated as quickly as some of the other new employees. Claimant was initially scheduled to start work for the employer in November 2015 but the employer reached out to see if she would start on October 5, 2015. Claimant agreed to start on October 5, 2015 and because she started early, there was a delay in generating her employee ID. On October 5 or 6, 2015, claimant had a conversation with Mr. Paterson. Claimant told Mr. Paterson that she did not have her employee ID. Mr. Paterson told claimant that he would check into the issue and determine if they could expedite the process. Mr. Paterson told claimant that he would let her know when her employee ID was generated. Mr. Paterson discussed with claimant about the first pay cycle payment and how he was not sure if she would be paid on the first cycle on October 16, 2015. The second cycle payment was on October 30, 2015. The employer told the new employees, including claimant, that if there is a delay in getting their employee ID generated, there may be a delay in their first pay check; however, it would be paid in the next pay cycle. Claimant was told this during her initial training that started on October 5, 2015.

Claimant's biggest concern was getting paid. The employer was working to get claimant paid. Claimant's employee ID was generated in the evening on October 8, 2015, which was in time for the first pay cycle. The employer intended to communicate with claimant on October 9, 2015 in the morning that her employee ID was generated but she had already quit and left. The employer called and left a message for claimant on October 9, 2015. The employer was reaching out to find out the circumstances as to why claimant left the way she did. Claimant did not return the employer's phone call. The employer did produce a physical check for claimant on October 16, 2015. There was work available for claimant had she not quit on October 9, 2015.

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.

It is the duty of an administrative law judge and the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge, as the finder of fact, may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other evidence you believe; whether a witness has made inconsistent statements; the witness's conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996).

This administrative law judge assessed the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and used my own common sense and experience. This administrative law judge finds the employer's version of events to be more credible than claimant's recollection of those events.

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(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 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:

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

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).

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Claimant started working for the employer approximately a month earlier than originally planned. The employer had trouble generating her employee id right away because she started earlier than originally planned. The employer was aware of claimant's frustrations with her lack of employee id, but communicated with her that it was working on it. The employer was not able to tell claimant that she would be paid for sure during the first pay cycle on October 16, 2015 but did inform her she would for sure receive payment on October 30, 2015 for all of the hours she had work. The employer was able to generate an employee id for her on October 8, 2015 in the evening. Her employee id was generated in time to pay her during the first pay cycle. However, before the employer could communicate with claimant on October 9, 2015 that her employee ID was generated, she turned in her badge, quit, and left the employer. The employer tried to communicate with claimant on October 9, 2015 via phone but she refused to return the employer's call. Claimant had no intention of returning to work for the employer; which is why she turned in her badge. Claimant quit before she officially knew whether she would or would not receive a pay check on the first pay cycle. There was work available for claimant had she not quit.

Claimant's leaving the employment without notice, and the failure to return to work renders the separation job abandonment without good cause attributable to the employer. Claimant quit because she did not think she was going to be paid during the first pay cycle; however, the first pay cycle had not even happened yet. Had claimant waited until the first pay cycle happened on October 16, 2015, she would have been paid (her employee ID was generated on October 8, 2015).

Claimant's decision to quit because she was unsure if her employee id would be generated in time for the first pay cycle and because she did not wait until the first pay cycle occurred, 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 16, 2015 (reference 04) 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