

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHERIE L PHILLIPS
Claimant

APPEAL NO: 13A-UI-13387-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BINDERY 1 INC
Employer

OC: 11/03/13
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Cherie L. Phillips (claimant) appealed a representative's November 25, 2013 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment with Bindery 1, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 30, 2013. The claimant participated in the hearing. Gigi Toporek appeared on the employer's behalf and presented testimony from two other witnesses, Terri Holm and Jason Bolen. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

OUTCOME:

Affirmed. Benefits denied.

FINDINGS OF FACT:

The claimant started working for the employer in March, 2004. She worked full time as an estimator/customer service representative. Her last day of work was November 4, 2013. She voluntarily quit as of that date.

On the morning of November 4 a question had arisen about an inquiry from a customer about fulfillment of an order that was two to three weeks behind. The president of the company, Toporek, issued an instruction that the books should be reordered "even if" this meant that there would be duplicates produced. She gave this instruction both by email and verbally to the claimant at about 11:48 a.m. The claimant responded, "I'm not going to do that." She further indicated that she was quitting, then gathered her things and was gone by about 12:00 p.m.

The claimant had felt that it was unreasonable to reorder the books again and create more duplicates as she had already done a reorder earlier that day. She generally felt she was being

harassed by the employer by the employer's repeated expectation of her to "justify your time." She had complained to the business owner on about November 2 that she was miserable and was being mistreated. She had been suffering migraines which she attributed to stress and anxiety caused by the workplace; she indicated that her doctor had verbally suggested that the job was "bad for her health," but this was not put into writing, and she had not reported this to anyone with the employer.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993); *Wills v. Employment Appeal Board*, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (22). Quitting because a reprimand has been given is not good cause. 871 IAC 24.25(28). While the work environment might not have been ideal, the claimant has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. *O'Brien v. Employment Appeal Board*, 494 N.W.2d 660 (Iowa 1993); *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (FL App. 1973).

Under some circumstances, a quit for medical or health reasons is attributable to the employer. Iowa Code § 96.5-1. Where factors and circumstances directly connected with the employment caused or aggravated an employee's illness, injury, allergy, or disease can be good cause for quitting attributable to the employer. 871 IAC 24.26(6)b. However, in order for this good cause to be found, prior to quitting the employee must present competent evidence showing adequate health reasons to justify ending the employment, and before quitting must have informed the employer of the work-related health problem and inform the employer that the employee intends to quit unless the problem is corrected or the employee is reasonably accommodated. 871 IAC 24.26(6)b.

The claimant has not presented competent evidence showing adequate health reasons to justify her quitting. Even accepting the claimant's verbal testimony as to the recommendations made by her doctor, before quitting she did not inform the employer of the work-related health problem and inform the employer that she intended to quit unless the problem was corrected or reasonably accommodated. Accordingly, the separation is without good cause attributable to the employer and benefits must be denied.

DECISION:

The representative's November 25, 2013 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of November 4, 2013, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs