

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MEGAN A FRANZEN
Claimant

APPEAL 15A-UI-08951-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

GO DADDY SOFTWARE INC
Employer

**OC: 03/29/15
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 3, 2015, (reference 04) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on August 28, 2015. Claimant participated. Employer did not participate.

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 customer service sales and service consultant from June 2015, and was separated from employment on July 14, 2015, when she quit.

When claimant was hired, she was placed on a probationary period for 30 days. The employer has a policy that you cannot miss any unapproved time during this probationary period. Claimant missed four days for bereavement; however, only three of those days were approved. Claimant then missed a day (July 13, 2015) because of a medical condition. Claimant had been in the emergency room the day before. Her absence on July 13, 2015, was not approved by the employer. The claimant needed to have surgery because of her medical condition and it was scheduled for July 24, 2015. Claimant did not qualify for a leave of absence or Family and Medical Leave Act (FMLA) leave. Claimant spoke with the employer about missing the one day for surgery. The employer told claimant that she would be discharged for missing too much time during the probationary period.

Claimant gave her resignation on July 14, 2015, and the employer accepted it. Claimant quit because that would allow her to reapply for a position with the employer after 90 days.

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(29) and (37) 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 § 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 § 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:

(29) The claimant left in anticipation of a layoff in the near future; however, work was still available at the time claimant left the employment.

(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). Claimant was aware of the employer's attendance policy during her probationary period. On July 14, 2015, Claimant had already missed two unapproved days of work. Claimant was going to have to miss another day of work on July 24, 2015. Claimant made the decision to resign on July 14, 2015 in order to be in a position to reapply with the employer at a later date. The employer accepted claimant's resignation.

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 August 3, 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/pjs