

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AMANDA L HILLS
Claimant

APPEAL 15A-UCFE-00032-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

US POSTAL SERVICE
Employer

**OC: 10/11/15
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Amanda Hills (claimant) filed an appeal from the November 04, 2015, (reference 01) unemployment insurance decision that denied benefits based upon the determination she voluntarily quit her employment without good cause attributable to the U.S. Postal Service (employer). The parties were properly notified about the hearing. A telephone hearing was held on December 3, 2015. The claimant participated on her own behalf. The employer did not participate.

ISSUES:

Did the claimant voluntarily quit the employment with good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full time as a city carrier beginning on December 17, 1988, and was separated from employment on October 9, 2015, when she quit. The claimant tore the meniscus in one of her knees in March 2015. She was placed on a restriction that allowed her to work a six-hour workday which included two hours of sitting, two hours of driving, and two hours of standing. The employer accommodated her restrictions, but it still took the claimant an extra 45 minutes to an hour every day to complete her job duties. The claimant did not file for Workers' Compensation nor did her doctor tell her that it was a work-related injury.

In June 2015, the claimant began seeing a counselor through the employer's Employee Assistance Program (EAP) due to depression. The claimant felt she was being harassed when she was questioned about why her route was taking her longer to finish than it had in the past. The EAP counselor advised the claimant she was being subjected to a hostile work environment and ordered her to be off work for a month. The claimant only had one month of job-protected leave under the Family Medical Leave Act (FMLA).

After her job-protected leave expired, the claimant went on unpaid status as she did not feel ready to return to work. On or about September 15, 2015, the claimant received a letter from the employer stating she needed to return to work in 30 days or she would be discharged. The

employer also included a resignation form that the claimant could choose to complete with the letter. On October 9, 2015, the claimant completed the form and submitted her resignation.

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(20), (22), (28), (33), (35) 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 § 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:

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

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

(28) The claimant left after being reprimanded.

(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

(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.

(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.

Iowa Admin. Code r. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

The 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).

The claimant's decision to leave her job was not due to her knee injury. She had worked for three months with that injury and was being accommodated within her doctor's restrictions. The claimant's decision to leave was related to her supervisor asking her why she was taking longer to complete her job tasks. The conduct led the claimant to feel depressed. However, a licensed physician did not diagnose the claimant; instead, a counselor from the EAP program diagnosed her as such. Additionally, a licensed physician did not tell the claimant to leave her position due to the depression.

The supervisor's questions about the length of time it took the claimant to finish her job duties did not create a job environment that the average person in a similar situation would find intolerable or detrimental. The employer required all employees to turn in slips when going over their allotted hours. The claimant went over her allotted hours on an almost daily basis. No other employee went over the amount of time that the claimant went over. The claimant's decision to leave her employment may have been for her own personal reasons, due to an inability to get along with her supervisor, or following a reprimand; however, it was not for good-cause reasons attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The November 04, 2015, (reference 01) unemployment insurance decision is affirmed. The 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.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/css