

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

SOPHIA L MORROW
Claimant

APPEAL NO. 14A-UI-11032-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BRANDFX LLC
Employer

OC: 09/28/14
Claimant: Appellant (2)

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated October 21, 2014, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on November 13, 2014. Claimant participated. Employer participated by Tammy Birchard. Claimant's Exhibits A through G and Employer's Exhibits One through Two were admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on August 28, 2014. Employer encouraged claimant to quit on October 2, 2014 because claimant had taken too much time off for an injury that did not occur at work.

Claimant was injured on or around September 3, 2014 in an accident that did not occur at work. Claimant's recovery from her injury took over a month. Claimant had significant knee problems that limited her ability to do more than light-duty work. Claimant's job required that she be on her feet ten hours a day. Claimant was unable to fulfill the requirements of her job while she recovered from her injury. Claimant forwarded multiple doctor's notes to employer stating that her recovery required light-duty work and no travel up stairs.

Claimant received a certified letter from employer on or around September 25, 2014. Said letter stated that claimant needed to return to work on October 11, 2014 as claimant had a doctor's note stating that she could not return to full duty work until October 11, 2014. The letter from employer went on to state that if she did not return to full duty work on October 12, 2014 the employer would presume that to be a voluntary resignation from work. They would end her employment, but code her as eligible for rehire.

On October 2, 2014 claimant returned to work with a doctor's note saying that she was to be off work completely through October 12, 2014. Employer encouraged claimant to sign a resignation on October 2, 2014 stating that she was resigning due to illness and allowing her to be coded for rehire. Claimant signed this letter.

REASONING AND CONCLUSIONS OF LAW:

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. 871-24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because claimant was informed that she needed to return to work by a date certain, when she had not been released by her doctor to return to work. When claimant went into work with this doctor's note, employer placed an ultimatum on claimant stating the only way claimant would be eligible for rehire was to voluntarily quit. This quit is not seen as voluntary if a rehire is conditioned on a "voluntary" quit.

Claimant's signing of a resignation notice was predicated on two things;

First, claimant received a certified letter on or about September 25, 2014 stating that she must return to work by a date certain or she would be deemed to have quit. This letter included no allowance for any further extension of days off for recovery if they were determined to be necessary by claimant's doctor.

Second, when claimant received an extension of her doctor's excuse relieving her from work until October 13, 2014 she took it to her employer on October 2, 2014. Employer at that time had claimant sign a resignation letter listing her reason for resigning as "illness." Claimant did not wish to resign, but this was the way that claimant would be able to be coded for rehire.

Claimant being forced to resign is deemed by the Administrative Law Judge to be the equivalent to a discharge for misconduct. The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. Infante v. Iowa Dep't of Job Serv., 364 N.W.2d 262 (Iowa Ct. App. 1984). What constitutes misconduct justifying termination of an employee and what misconduct warrants denial of unemployment insurance benefits are two separate decisions. Pierce v. Iowa Dep't of Job Serv., 425 N.W.2d 679 (Iowa Ct. App. 1988). In this matter claimant had doctor's excuses covering all of her missed days of work. On the date that claimant signed her resignation, she had forwarded to employer a doctor's excuse covering her missing work for the next week and a half. There was no need for claimant to quit other than the pressure applied from employer.

DECISION:

The decision of the representative dated October 21, 2014, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/can