

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

DIANA S ANDERS

Claimant

APPEAL NO. 19A-UI-01361-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NEXTERA ENERGY DUANE ARNOLD LLC

Employer

OC: 01/06/19

Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Diana Anders filed a timely appeal from the February 7, 2019, reference 01, decision that held she was disqualified for benefits and the employer's account would not be charged for benefits, based on the deputy's conclusion that Ms. Anders voluntarily quit on December 31, 2018 without good cause attributable to the employer. After due notice was issued, a hearing was held on March 4, 2019. Ms. Anders participated. The employer did not comply with the hearing notice instructions to register a telephone number for the hearing and did not participate. The hearing in this matter was consolidated with the hearing in Appeal Number 19A-UI-01638-JTT. Exhibits A through E were received into evidence. The administrative law judge took official notice of the Agency's administrative record of benefits disbursed to the claimant.

ISSUE:

Whether Ms. Anders voluntarily quit the employment without good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Diana Anders was employed by NextEra Energy Duane Arnold, L.L.C. as a full-time Quality Control and Materials Technician until December 31, 2018, when she voluntarily quit the employment pursuant to the terms of an "enhanced" early retirement agreement. Ms. Anders began her employment at the Duane Arnold nuclear power plant in 1985 and continued in the employment well after NextEra Energy commenced operating the facility in 2005.

The employer plans to cease generating power at the Duane Arnold facility in at the end of 2020. The facility will then undergo a years-long decommissioning process. Toward the end of Ms. Anders' employment, the employer had 525 employees at the Duane Arnold facility. The employer expects to need only 300 employees at the Duane Arnold facility once the plant ceases producing power and commences the decommissioning process.

As part of the employer's effort to reduce staffing levels, the employer notified Ms. Anders in June 2018 that she was eligible to participate in an "enhanced" retirement program. Ms. Anders was 57 years old at the time and had not been considering retiring in the foreseeable future. The employer made a similar offer to 74 other retirement-eligible employees at the Duane Arnold facility. In July 2018, the employer provided Ms. Anders with the details of the employer's proposal. In exchange for Ms. Anders' agreement to stay in her employment until the end of 2018 and to voluntarily separate from the employment effective December 31, 2018, the employer agreed to contribute an amount equal to one year of Ms. Anders' salary to her pension fund. Ms. Anders could also elect to participate in an employer-sponsored retiree health insurance plan so long as she paid the applicable premium. The employer's June 28, 2018 correspondence regarding the retirement program included the following:

It is important to note that employees who receive an offer to participate in the enhanced retirement program and select not to participate may be offered the opportunity to participate in future programs or be considered for a severance program in future staff reduction efforts.

If there are involuntary staff reductions following the enhanced retirement program, employees will be notified later this year and have access to similar packages as in years past. Employees will also have an opportunity to apply for open positions within NextEra Energy.

The June correspondence provided a September 4, 2018 deadline for acceptance or rejection of the employer's proposal. The employer's July 24, 2018 correspondence regarding the retirement program repeated the first quoted paragraph set forth above and extended the deadline for acceptance or rejection to September 10, 2018.

Ms. Anders notified the employer prior to the September 4, 2018 deadline that she was electing to participate in the program. The employer had not announced a layoff. Nor had the employer notified Ms. Anders that she was in jeopardy of being discharged from the employment. The employer's retirement-package related correspondence did not constitute notice or threat of an impending layoff or discharge. Ms. Anders elected to accept the employer's early retirement offer in lieu of the uncertainty surrounding a later separation from the employment if she elected to reject the employer's pending offer and continue in the employment. Ms. Anders was one of 29 Duane Arnold employees who accepted the employer's offer. More than 50 eligible Duane Arnold employees declined the employer's offer and continued in the employment. Ms. Anders was in a position to commence drawing from her pension in 2019 and this was a factor in her decision to accept the employer's offer. Ms. Anders continued to work until December 31, 2018 and then separated from the employment pursuant to the retirement program agreement.

REASONING AND CONCLUSIONS OF LAW:

Iowa Administrative Code rule 871-24.1(113) characterizes the different types of employment separations as follows:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of labor-saving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

- b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.
- c. Discharge. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.
- d. Other separations. Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See Iowa Administrative Code rule 871-24.25.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

A claimant who left employment to accept retirement when the claimant could have continued working is presumed to have voluntarily quit without good cause attributable to the employer. Iowa Administrative Code rule 871-24.25(24).

If a claimant voluntarily leaves employment in anticipation of a layoff in the near future, but when work is still available, is presumed to have voluntarily quit without good cause attributable to the employer. Iowa Administrative Code rule 871-24.25(29).

The weight of the evidence in the record establishes a voluntary quit that was without good cause attributable to the employer. Ms. Anders elected to accept an "enhanced" early retirement package that included an agreement to leave the employment at the end of 2018. Ms. Anders could have declined the employer's retirement package offer and continued working. The employer had not announced a layoff and continued work was available, presumably through 2020. Ms. Anders is disqualified for benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. Ms. Anders must meet all other eligibility requirements. The employer's account shall not be charged.

DECISION:

The February 7, 2019, reference 01, decision is affirmed. The claimant voluntarily quit the employment effective December 31, 2018 without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs