

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TINA M KIMMEL
Claimant

CENTRAL IOWA HOSPITAL CORP
Employer

APPEAL NO. 14A-UI-09636-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 08/17/14
Claimant: Appellant (1)**

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated September 9, 2014, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on October 6, 2014. Claimant participated. Employer participated by Anne Pederson and Amanda Banks. Employer's Exhibit One was 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 July 16, 2014. Claimant had worked for employer for a number of years. During that time claimant had contributed to her 401k retirement account. As claimant needed money, she drew two loans from this retirement account.

Because of hardship circumstances, claimant needed to access more of the money in her 401k account. Employer's 401k accounts are handled through JP Morgan. Employer did not have an allowance to access 401k funds for hardships, as access to those funds are limited to the two loans against the 401k monies that claimant had already received. As claimant had no other way to access this money, claimant resigned from her employment in order to get this money. Employer accepted this resignation. Claimant later attempted to withdraw her resignation, but it had already been accepted, and employer was not willing to take claimant back at work.

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. 871-24.25(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 section 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 section 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:

(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.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because she wanted access to her 401k money. Claimant received information about her 401k plan before she voluntarily chose to participate in that plan. Claimant knew enough about the 401k plan to know that she was able to get two separate loans off of the plan. Claimant certainly could have accessed the information stating that she was unable to secure her 401k remaining monies short of quitting her employment. This was not a matter where employer changed claimant's contract of hire to her detriment as there has been no evidence brought forward showing a changing of policies.

Additionally, after claimant offered her resignation and her resignation was accepted, employer had no obligation to give claimant her job back when she wanted to withdraw the resignation.

DECISION:

The decision of the representative dated September 9, 2014, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/pjs