

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALEXANDRIA B GORDON
Claimant

MERCY HOSPITAL
Employer

APPEAL 17A-UI-05105-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/23/17
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Alexandria B. Gordon (claimant) filed an appeal from the May 8, 2017, reference 01, unemployment insurance decision that denied benefits based upon the determination she voluntarily quit her employment for personal reasons which are not good cause reasons attributable to Mercy Hospital (employer). The parties were properly notified about the hearing. A telephone hearing was held on June 1, 2017. The claimant participated. The claimant registered a witness who did not answer the phone or call back while the record was open and did not participate in the hearing. The employer participated through Patient Financial Services Supervisor Rory Ditzler and Human Resource Business Partner Michael Wilkinson.

The claimant received her hearing notice within three days of the date it was mailed on May 19, 2017. However, she did not closely read the document until May 30, 2017. She did not submit a subpoena request for documents prior to the hearing and would have requested her pay stubs and the employer's employment policies. As the instructions for requesting a subpoena were not followed and the documents being requested were general in nature, the hearing proceeded without the subpoena for those documents being issued. The employer offered two documents into the record, the claimant's resignation letter and the employer's acceptance of her resignation; however, as they were faxed to the Appeals Bureau and mailed to the claimant on May 30, 2017, the claimant had not yet received them. The documents were not admitted into the record.

ISSUE:

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 an Access Services or Registration Representative beginning on July 10, 2006. The claimant worked primarily in the Emergency Department until January 2017 when she transferred to a Pre-Registration Representative to assist with the increased workload and stress that had started three years prior with the passage of the Affordable Care Act. She was separated from employment on March 17, 2017, when she quit.

The claimant first requested intermittent leave under the Family Medical Leave Act (FMLA) in August 2016. She took intermittent leave due to hospitalizations related to her high blood pressure and anxiety brought on by stressful situations. She did not file a Workers' Compensation claim. On March 6, 2017, the claimant submitted her resignation effective March 17 due to medical concerns beyond her control. Her doctor did not recommend or advise her to quit her job. The claimant testified she continues to be unable to work due to her health conditions.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant is separated from employment without good cause attributable to the employer.

Iowa Code § 96.5(1)d 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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.25(35) 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:

(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.

The court in *Gilmore v. Empl. Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004) noted that:

"Insofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." *White v. Emp't Appeal Bd.*, 487 N.W.2d 342, 345 (Iowa 1992) (citing *Butts v. Iowa Dep't of Job Serv.*, 328 N.W.2d 515, 517 (Iowa 1983)).

The claimant has not established that the medical condition was work related or that treating medical personnel advised her to quit the job, as is her burden. Nor did she request an accommodation from the employer, other than time off which was granted, before quitting. Accordingly, the separation is without good cause attributable to the employer.

DECISION:

The May 8, 2017, reference 01, unemployment insurance decision is affirmed. The claimant's separation was without good cause attributable to the employer. Benefits are withheld until such time as claimant works in and has been paid wages equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn