

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHELLE WALZ
Claimant

APPEAL NO: 15A-UI-12656-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

THOMAS RUNDLE DDS PC
Employer

OC: 05/31/15
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the November 12, 2015, reference 02, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on December 3, 2015. The claimant participated in the hearing. Dr. Thomas Rundle, Owner, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her 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 as a full-time dental assistant for Thomas Rundle DDS from October 5, 2015 to October 12, 2015. She resigned due to a medical condition.

The claimant was diagnosed in 2014 with genetic Ataxia, a medical condition that affects her cerebellum. If she stands for a long period of time she becomes dizzy, can slur her words, and “doesn’t feel right.” She has been a dental assistant for the last 22 years and always sat down to perform her job in the past. When she started working for Dr. Rundle, however, she realized he always stood to perform dental work on patients. The first three days of her employment the claimant was basically going through an orientation process and did not work on any patients. On Thursday, October 8, 2015, the claimant assisted Dr. Rundle, standing, on one patient, and hit him in the head with the light and felt like she “didn’t know what she was doing.” She went home and thought extensively about the situation over the employer’s three-day weekend and on Monday, October 12, 2015, she approached Dr. Rundle, explained the situation and her condition, and stated she could not work for him because she could not stand up and work on patients. As a result, she notified him she had to resign her position with the practice.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

A voluntary quit based on illness is clearly disqualifying except upon the advice of a licensed and practicing physician. Taylor v. IDJS, 362 N.W.2d 534 (Iowa 1985). A voluntary quit is not attributable to the employer if caused by illness not connected to the employment. Wolf's v. IESC, 244 Iowa 999, 59 N.W.2d 216 (1953).

The claimant always sat down while assisting the dentists she previously worked for, as did her previous employers, but Dr. Rundle stood while working on his patients, which meant the claimant would need to stand as well. The parties never discussed how they would work together with regard to sitting or standing and both were somewhat surprised by the other's methods. While this is an unfortunate situation for both the claimant and the employer, the claimant was not instructed she needed to voluntarily leave her job by a physician and her illness was not caused by her employment. Consequently, the administrative law judge must conclude the claimant has not established that her leaving was for good cause attributable to the employer. Therefore, benefits must be denied.

DECISION:

The November 12, 2015, reference 02, decision is affirmed. The claimant voluntarily left her 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs