

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LINDA L CAPRON**  
Claimant

**APPEAL NO. 13A-UI-11554-N**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALEGENT HEALTH**  
Employer

**OC: 09/08/13**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit  
Section 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a representative's decision dated September 30, 2013, reference 01, which denied unemployment insurance benefits. After due notice was provided, a hearing was held in Council Bluffs, Iowa on December 5, 2013. Claimant participated. The employer participated by Ms. Alyce Smolsky, Hearing Representative, and witnesses: Ms. Marcia Reitz and Ms. Cassi Goulet. Employer's Exhibit A and Claimant's Exhibits 1, 2, and 3 were received into evidence.

**ISSUE:**

The issue is whether the claimant left employment with good cause attributable to the employer and whether the claimant's appeal was timely.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Claimant has established good cause for a late filing of her appeal in this matter. The claimant deposited her appeal with the U.S. Postal Service allowing sufficient time for it to be postmarked as timely, however, the claimant's appeal was delayed by action of the U.S. Postal Service through no fault of the claimant.

Ms. Capron began her employment with Alegent Health on March 22, 2011. The claimant last held the position of full-time clinic manager and was paid by the salary. Her immediate supervisor was Marcia Reitz.

Ms. Capron left her employment on September 6, 2013 after receiving a final warning and performance improvement plan the preceding day, September 5, 2013. Ms. Capron had the option of attempting to improve her work performance under the conditions set forth in the performance improvement plan or leaving employment. After considering the matter, Ms. Capron submitted her resignation on September 6, 2013. Ms. Capron concluded that the work was too stressful and might be adversely affecting her health. Ms. Capron supplied more

medical documentation to the employer indicating that she was required to leave employment for medical reasons. The claimant did not cite medical reasons at the time of leaving nor complained to her employer about any medical conditions that were affected by her work prior to leaving. Work continued to be available to Ms. Capron at the time of leaving, however, the employer expected the claimant to show improvement per the guidelines of the performance improvement plan.

### **REASONING AND CONCLUSIONS OF LAW:**

The question before the administrative law judge is whether the evidence in the record establishes the claimant left employment with good cause attributable to the employer. It does not.

Iowa Code section 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.

871 IAC 24.26(6)b provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(6) Separation because of illness, injury or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

871 IAC 24.25(28) 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:

(28) The claimant left after being reprimanded.

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). An individual who voluntarily leaves their employment must first give notice to the employer of the reason for quitting in order to give the employer an opportunity to address or resolve the complaint or to offer an accommodation. Suluki v. Employment Appeal Board, 503 N.W.2d 402 (Iowa 1993).

The administrative law judge, having considered the evidence in the record, concludes that the primary reason for Ms. Capron's leaving employment on September 6, 2013 was due to dissatisfaction with a warning and performance improvement plan that had been served upon her the preceding day. The warning and performance improvement plan were reasonable and work related. While the claimant's leaving may have been for good cause personal reasons, those reasons were not good cause reasons attributable to the employer under the circumstances of this case. Work continued to be available to the claimant at the time that she left, however, claimant chose to leave employment in anticipation that she might be discharged in the future.

**DECISION:**

The representative's decision dated September 30, 2013, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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