

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

LORENA A MAGANA

Claimant

CENTRAL IOWA HOSPITAL CORP

Employer

APPEAL 15A-UI-00537-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/07/14

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 5, 2015 (reference 02) unemployment insurance decision that denied benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on February 16, 2015. Claimant participated. Employer participated through human resources business partner Lindsay Schuman and nurse manager Donnette Guisinger. Claimant's Exhibits A through C were received.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part time as a unit clerk and was separated from employment on September 20, 2014 after transferring to the unit in August 2013. Claimant told Guisinger towards the end of 2013 that coworker Kelly was giving her a hard time so Guisinger spoke with Kelly, who denied the allegation. Guisinger told Kelly she did not want to hear of it happening again and told claimant to complain if it did. She did not. Guisinger met with claimant periodically in December 2013 to discuss wearing inappropriate tight clothing and low cut tops. On January 27, 2014 Guisinger instructed her to call in absences to the floor charge nurse, disability coordinator, and Guisinger two hours in advance of shift. On February 3, 2014, staff reported claimant was calling in absent due to illness but was posting Facebook photos. On February 7 Guisinger talked to claimant about the staff perception of her being at home with her ill daughter but posting on Facebook and not calling on time. Guisinger opted to give her a verbal, rather than written, reprimand.

In February 2014 she complained to Schuman because she believed Guisinger and other nurses were rude when they made comments about her tattoo. Schuman's investigation revealed no evidence of unfair treatment but asked Guisinger to keep an eye on the floor. On March 10 the claimant reported late that her daughter was in the emergency room so on March 28 Guisinger gave her a second level corrective action for failing to properly report the absence. Schuman followed up with claimant by email on March 21 and claimant's March 26

reply said things were going much better. After a corrective action on March 28 about failure to properly report use of Family and Medical Leave Act (FMLA) leave and reporting to work with jewelry in the piercing above her lip. The corrective action was upheld at two levels as of April 21.

Guisinger sent claimant an e-mail on August 26 asking her to contact disability coordinator Ruth about her pregnancy and leave requirements. Claimant did so on September 8. The employer gave her FMLA sporadic leave authority and reminded her of absence reporting requirements. On September 17 claimant was given a corrective action about not completing job tasks and not following the appropriate call-in procedure for absences. In the meeting on September 20, 2014 with Schuman and Guisinger to give claimant an action plan and verbal warning about job performance. Later the same day claimant gave her intention to resign on October 4. Guisinger called and left message on September 22. She called again on September 23 about the absence on September 22; which claimant said was due to respiratory illness and vomiting related to her pregnancy. Guisinger told her she had failed to properly report the absence and was expected her to follow those guidelines. Claimant said she did not have to do so because she had already resigned and her last day was October 4 and declined to report to complete paperwork.

On September 26 claimant told Schuman she was pregnant but said nothing about that being related to her separation and made no mention of stress, anxiety or high blood pressure. Later that day Schuman left claimant a message that because she failed to report at Guisinger's request, the termination paperwork was effective before the end of the notice period. Claimant filed her claim for unemployment insurance benefits effective December 7, 2014.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was 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.

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(6), (22), and (28) provide:

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 § 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 § 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:

(6) The claimant left as a result of an inability to work with other employees.

(22) The claimant left because of a personality conflict with the supervisor.

(28) The claimant left after being reprimanded.

The claimant did not present medical documentation to support her decision to quit and her separation was more closely related to the timing of the last of a series of reprimands because of failure to properly report absences. These were not good cause reasons attributable to the employer. Benefits are denied.

DECISION:

The January 5, 2015 (reference 02) unemployment insurance decision is affirmed. Claimant voluntarily left the 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.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

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