

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

EMILY L CORDES
Claimant

COMPASS ONE LLC
Employer

APPEAL 15A-UI-08892-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 07/12/15
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available – Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 31, 2015, (reference 01) unemployment insurance decision that denied benefits based upon a voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on August 28, 2015. Claimant participated. Employer participated through district manager Darrin Pulley.

ISSUES:

Did claimant voluntarily leave the employment with good cause attributable to employer or did employer discharge claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time working at the salad bar station from May 2013, and was separated from employment on July 16, 2015, when she voluntarily quit.

Claimant went to work on July 16, 2015, at about 6:00 am. Around 7:00 or 8:00 a.m., claimant began experiencing a panic attack. Claimant called her supervisor, Becky, and told her she was having a panic attack. Claimant explained to Becky her physical symptoms, and stated she felt unsafe and needed to leave. Becky informed claimant she was already being written up for previous absences and that if she left there was a possibility she could be terminated. Claimant hung up the phone and told her co-workers that she was terminated and walked out.

District Manager Darrin Pulley called claimant several times that day and left messages. At about 5:30 p.m., Pulley was finally able to speak with claimant. Claimant explained what had occurred earlier that day. Pulley informed claimant she had not been terminated. Pulley informed claimant that employer was extremely shorthanded, and asked claimant to come back to work the next day. Claimant stated she did not think she could due to her medical condition.

Pulley did not explain to claimant that she was entitled to a reasonable accommodation of medical leave because of her condition. Instead, Pulley told claimant that employer needed to know what she was going to do for scheduling purposes. Claimant stated she could not return to work the next day, so she would resign.

Claimant went to the doctor on July 20, 2015, for her condition and did not feel well enough to return to work until August 3, 2015.

REASONING AND CONCLUSIONS OF LAW:

The first issue is whether claimant voluntarily left the employment with 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 § 216.6 (previously 601A.6) requires employers to make "reasonable accommodations" for employees with disabilities. Reasonable accommodation is required only to the extent that refusal to provide some accommodation would be discrimination itself. Reasonableness is a flexible standard measured in terms of an employee's needs and desires and by economic and other realities faced by the employer. *Sierra v. Emp't Appeal Bd.*, 508 N.W.2d 719 (Iowa 1993). See also, *Foods, Inc. v. Iowa Civil Rights Comm'n*, 318 N.W.2d 162 (Iowa 1982) and *Cerro Gordo Care Facility v. Iowa Civil Rights Comm'n*, 401 N.W.2d 192 (Iowa 1987).

In this case, employer was likely required to offer claimant a reasonable accommodation of medical leave at the point it became aware of her medical condition and need for leave. It failed to do so, and instead told claimant she needed to return to work. Claimant was unable to return to work. Thus, her quit was for good cause attributable to the employer.

The next issue is whether and when claimant was able and available to work.

Iowa Code § 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.23(35) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

Here, claimant was under the care of a medical practitioner and not able to return to work until August 3, 2015.

DECISION:

The July 31, 2015, (reference 01) unemployment insurance decision is reversed. The claimant is able to work and available for work effective August 3, 2015. Benefits are allowed after August 3, 2015, provided claimant is otherwise eligible.

Christine A. Louis
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Decision Dated and Mailed

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