

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JACKIE L SYPHRIT
Claimant

S & J TUBE INC
Employer

APPEAL 20R-UI-00555-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/27/19
Claimant: Appellant (1R)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the November 12, 2019 (reference 01) unemployment insurance decision that denied benefits to claimant based upon her voluntarily quitting employment. A default decision was issued on December 16, 2019 due to the claimant's failure to appear for the appeal hearing. After an appeal, the Employment Appeal Board remanded the case for a hearing. Due notice was issued for the hearing. A telephone hearing was held on February 4, 2020. The claimant, Jackie L. Syphrit, participated personally. The employer, S & J Tube Inc., participated through witness Nicole Hoben. Brooke McCullough observed on behalf of the employer. Employer's Exhibits 1 through 7 were admitted.

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 full-time as a painter from June 10, 2019 until October 23, 2019. Her scheduled work shifts were from 4:30 a.m. to 1:00 p.m. Monday through Saturdays. Paula Sorrowfree was her immediate supervisor.

The employer has a written policy that states if you are absent from work for three consecutive work days without proper notifications and authorizations, you will be considered to have voluntarily terminated your employment. See Exhibit 4. Claimant received a copy of the policy upon hire. See Exhibit 4.

Claimant was absent from work on October 21, 22, and 23, 2019. She did not call in to report her absences prior to her scheduled shift start times pursuant to the employer's written policies. Claimant was ill with the flu from October 19, 2019 through January 14, 2020 and has been unable to work because of her personal illness. Claimant did not return to the employer to offer her services once she was completely recovered from the flu on January 14, 2020.

There has been no initial investigation and determination regarding whether claimant has been able to work since filing her initial claim for benefits effective October 27, 2019 considering her testimony that she was ill and unable to work since October 19, 2019. The question of whether the claimant has been unable to work due to personal illness will be remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

Iowa Admin. Code r. 871-24.25(4) 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:

- (4) The claimant was absent for three days without giving notice to employer in violation of company rule.

In this case, claimant had an intention to quit and carried out that intention by failing to come to work for three consecutive days without giving the employer notice of her absences. Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). Claimant has failed to establish a good-cause reason attributable to the employer that caused her to voluntarily quit. Benefits must be denied.

DECISION:

The November 12, 2019 (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit without good cause attributable to the employer. Unemployment insurance benefits are denied until claimant has worked in and earned wages for insured work equal to ten times her weekly benefit amount after her separation date, and provided she is otherwise eligible.

REMAND:

The issue of whether the claimant has been able to work due to her personal illness from October 19, 2019 through January 14, 2020, as delineated in the findings of fact, is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs