

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTINE A GOODWIN
Claimant

APPEAL NO. 11A-UI-10739-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**ALLIED BARTON SECURITY SERVICES
LLC**
Employer

OC: 07/10/11
Claimant: Appellant (1R)

Iowa Code Section 96.5(1)(d) – Voluntary Quit

STATEMENT OF THE CASE:

Christine Goodwin filed a timely appeal from the August 9, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on September 7, 2011. Ms. Goodwin participated personally and was represented by Attorney Katie Naset. Nick Ellringer, Operations Manager for Central Iowa, represented the employer and presented additional testimony through Jeff Faudere, Human Resources Manager.

ISSUE:

Whether Ms. Goodwin separated from the employment for a reason that disqualifies her for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Christine Goodwin was employed by Allied Barton Security Service as a full-time security officer from April 29, 2011 and last performed work for the employer on June 20, 2011. Ms. Goodwin was assigned to provide security services at John Deer Financial in Johnston. Ms. Goodwin's immediate supervisor was Site Supervisor Patrick Lant.

Ms. Goodwin has significant mental health issues that predate her employment with Allied Barton. These issues include a diagnosis of major depression. More recently, Ms. Goodwin has been diagnosed with borderline personality disorder. Ms. Goodwin's mental health issues have been treated with psychotropic medications.

On June 20, 2011, Ms. Goodwin sent a text message to Mr. Lant. Ms. Goodwin mostly communicated with the employer through text messages and generally avoided direct and meaningful contact. The text indicated that she needed to go to the hospital. Mr. Lant next received an update from a friend of Ms. Goodwin, who indicated that she was hospitalized.

On June 22, Ms. Goodwin went to Broadlawns Medical Center to obtain a mental health assessment because she was feeling suicidal. It was decided that Ms. Goodwin should be

hospitalized. Ms. Goodwin was hospitalized as a psychiatric patient at Iowa Lutheran Hospital from June 22 to July 5, when a doctor discharged her from that facility. While Ms. Goodwin had been hospitalized, a doctor made changes to Ms. Goodwin's medications. Ms. Goodwin was unhappy with her stay at Iowa Lutheran, the manner in which her medication change was handled.

On July 5, Ms. Goodwin left a message for the employer indicating that she would be returning to work on July 8. In response to this message, Nick Ellringer, Operations Manager for Central Iowa, called Ms. Goodwin's cell phone and left a message indicating that Ms. Goodwin would need to provide a doctor's note releasing her to return to work before the employer would allow her to return to work.

On July 6, Ms. Goodwin sent a text message to Mr. Ellringer. The text indicated that Ms. Goodwin needed to place herself back in the hospital because she did not feel right and was a danger to herself. On July 6, Ms. Goodwin got herself admitted to Mercy Franklin Medical Center. That same day, a Mercy Franklin doctor concluded that Ms. Goodwin was not depressed. The doctor questioned Ms. Goodwin's use of the psychotropic medication Seroquel. Ms. Goodwin was unhappy with the interaction and got herself discharged from Mercy Franklin the same day. Shortly thereafter, Ms. Goodwin intentionally overdosed on Seroquel and was hospitalized at Broadlawns. Ms. Goodwin was discharged from Broadlawns on July 11 with a doctor order to participate in intensive outpatient therapy, three times per week. The therapy sessions would end at 4:00 p.m., which had been Ms. Goodwin's start time at John Deere Financial.

On July 13, Ms. Goodwin went to the Allied Barton office and met with Mr. Ellringer. Up to this point, the employer continued to consider Ms. Goodwin to be employed and had not taken any steps to sever the employment relationship. Ms. Goodwin brought a written application for food stamps. Ms. Goodwin needed documentation of the fact that she had been off work. Ms. Goodwin had a doctor's note with her, but did not mention or present the doctor's note. The doctor's note addressed only Ms. Goodwin's hospitalization at Iowa Lutheran Hospital up to July 5. Mr. Ellringer asked Ms. Goodwin when she would be able to return to work and told her that he needed someone to work. Ms. Goodwin told Mr. Ellringer that she wanted to voluntarily resign because she did not feel she could return to the employment due to mental instability. Ms. Goodwin told Mr. Ellringer that she had attempted suicide through drug overdose and was still under a doctor's care. Mr. Ellringer told Ms. Goodwin that when she felt better to let him know and he would get her back to the John Deere Financial post. Because Ms. Goodwin was resigning, Mr. Ellringer asked her to return her uniforms, pursuant to company policy. Ms. Goodwin subsequently returned her work uniforms.

On July 15, Ms. Goodwin sent Mr. Ellringer a text message. In the text message, Ms. Ellringer asked if she could have her job back. Despite the fact that he had two days earlier told Ms. Goodwin to contact him when she felt better and was ready to return to work, Mr. Ellringer telephoned Ms. Goodwin's cell phone and left a message saying that he did not have a position open at the time.

On August 12, after a fact-finding interview that took place on August 8, Ms. Goodwin sent a text message to the employer asking for her job back. The employer did not respond.

During Ms. Goodwin's medical evaluations and hospitalizations, she did not speak to any of the doctor's about her new employment with Allied Barton Security Services. No doctor advised Ms. Goodwin to leave the employment. At no point did Ms. Goodwin provide the employer with medical documentation indicating that she needed to quit the employment for medical reasons.

At no point did Ms. Goodwin provide the employer with a medical release indicating that she had been released to return to the employment.

Early in the employment, Ms. Goodwin had decided that a male coworker was engaging in sexually harassing behavior because the coworker made an entry in a security log, indicating that she had been “looking at hot chicks” at John Deere Financial. Though the conduct was unprofessional, it was not harassing. Ms. Goodwin was not being harassed. Ms. Goodwin was not exposed to others being harassed. Ms. Goodwin reported her concern to the employer, the employer treated it as a serious matter, and took appropriate steps to address the matter.

During the employment, Ms. Goodwin also decided that she was being ostracized or excluded by other employees. There is no indication that any coworkers were engaging in any intentionally negative conduct directed at Ms. Goodwin.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

Workforce Development rule 817 IAC 24.26(6) provides as follows:

Separation because of illness, injury, or pregnancy.

a. Nonemployment related separation. The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.

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 the 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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The weight of the evidence indicates that Ms. Goodwin was a troubled person at the time she started the employment, was troubled during her brief time in the employment, and that she decided to separate from the employment for personal reasons relating to her mental health issues. The employer did not compel Ms. Goodwin to resign. A doctor did not recommend that she resign. The evidence fails to establish that it was necessary for Ms. Goodwin to leave the employment to avoid any harm associated with the employment. Once Ms. Goodwin voluntarily went off work on June 20, Ms. Goodwin at no time thereafter provided any documentation indicating that she had been released to return to work. From the time Ms. Goodwin voluntarily went off work on June 20 to the time she voluntarily quit on July 13, Ms. Goodwin did not make herself available to perform work for the employer.

The evidence establishes a voluntarily quit for personal reasons and without good cause attributable to the employer. Accordingly, Ms. Goodwin is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer’s account shall not be charged for benefits paid to Ms. Goodwin.

Ms. Goodwin presented no medical documentation whatsoever for a hearing in which medical matters played an important role. The administrative law judge concluded that there was insufficient evidence upon which to base a decision regarding whether Ms. Goodwin has met the work ability and work availability requirements of Iowa Code section 96.4(3) since she established her claim for unemployment insurance benefits. Those issues will be need addressed upon remand.

DECISION:

The Agency representative’s August 9, 2011, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer’s account shall not be charged.

This matter is remanded to the Claims Division for determination of whether the claimant has been able to work and available for work since she established her claim for benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css