

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LISA WEILAND

Claimant

BRIDGE COMMUNITY BANK

Employer

APPEAL 16A-UI-07830-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/26/16

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

Iowa Admin. Code r. 871-24.25(20) – Compelling Personal Reasons

Iowa Admin. Code r. 871-24.25(23) – Serious Family Needs

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 14, 2016, (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on August 4, 2016. The claimant Lisa Weiland participated and testified. The employer Bridge Community Bank participated through CEO Robert Steen and President Kevin Driscoll. Claimant's Exhibits A and B were received into evidence.

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 mortgage loan officer from March 22, 2004, until this employment ended on December 31, 2015, when she voluntarily quit.

In late 2015, claimant's son was diagnosed with terminal cancer. Following this diagnosis claimant missed a substantial amount of work. On December 23, 2015, claimant spoke with Steen about her future employment, as she would need to be home with her son while he was receiving cancer treatment. Claimant's son is also developmentally disabled. Her son's disability, along with his cancer diagnosis made it nearly impossible to receive care outside the home. This has required claimant to be his full time caregiver for an unknown period of time. (Exhibit A). Claimant's son was initially given a life expectancy of six months, though this has since been increased to between one and two years. While she is caring for her son claimant is unable to work. Claimant ultimately decided to resign her position in order to stay home and care for her son. Claimant's resignation was effective December 31, 2015. Had claimant not resigned work would have continued to be available to her.

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 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.

Iowa Admin. Code r. 871-24.25 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 § 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:

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

...

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

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). 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).

Claimant left her position to care for her terminally ill son. While the circumstances surrounding claimant's voluntary resignation are most certainly tragic and her leaving was undoubtedly based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. While there may be other remedies available to the claimant, they are outside the jurisdiction of the administrative law judge, as there is currently no statute that allows for unemployment benefits under these circumstances. Benefits are denied.

DECISION:

The July 14, 2016, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she is deemed eligible.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

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