

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SANDRA K ECKHARDT
Claimant

FRANKLIN COUNTY
Employer

APPEAL 19A-UI-02148-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/03/19
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 26, 2019, (reference 01) representative's decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on March 27, 2019. Claimant participated. Employer participated through Michelle Giddings, Auditor and Amy Holmgaard, Deputy Auditor. Claimant's Exhibit A was admitted into the record.

ISSUE:

Did the claimant voluntarily quit her employer without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as an assistant deputy auditor/real estate and drainage clerk beginning on November 13, 2001 through January 30, 2019 when she voluntarily quit. The claimant voluntarily quit because she thought the employer was accusing her of misusing her time. The claimant had applied for and been granted FMLA due to her Mother's illness. Claimant's FMLA had just been renewed for another twelve weeks beginning in December 2018. The employer had never once denied the claimant time off for FMLA. Each request she made to be off work to help care for her Mother was granted.

By January 30, 2019 the claimant had almost exhausted all of her leave hours, including sick and vacation. The claimant approached Ms. Holmgaard and asked her how she filled out her time sheet when she was out of leave. Ms. Holmgaard took the question to her supervisor, Ms. Giddings. Ms. Giddings contacted the employer's attorney to seek advice. She was told that she could deny leave without pay or unpaid leave when the claimant wanted time off for matters not connected to FMLA. While the claimant still had FMLA time available she would be allowed to use that even if she had no other paid leave time available. Ms. Giddings called the claimant and Ms. Holmgaard into a meeting so they could clarify how claimant's leave would be used once she ran out of paid leave. At no time did Ms. Giddings ever intend the meeting to be disciplinary and she had no plans to ask the claimant to resign. As Ms. Giddings and Ms. Holmgaard were explaining the process, the claimant asked if they thought she had been

doing something wrong. Both Ms. Giddings and Ms. Holmgaard told claimant she had not done anything wrong at all. Neither ever suspected that claimant was misusing her FMLA or leave time. They were just trying to explain to claimant what the process would be going forward. About fifteen to twenty minutes into the meeting, the claimant told both of them that she was done, that she was quitting. Both asked her if she was sure she wanted to leave. The claimant left the premises as she was quitting her job. Claimant had not been asked to quit and continued work was available for her if she wanted to continue her employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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(6) 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:

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

Iowa Admin. Code r. 871-24.25(22) 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:

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

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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).

The claimant has not established good cause attributable to the employer for her leaving the employment. The employer was merely trying to answer the claimant's question about how her FMLA would or could be used in light of the fact that she was almost completely out of paid leave options. The employer was also explaining the impact using unpaid leave would have on the claimant's benefits, like her health insurance. At no time did the employer accuse the claimant of wrong doing. Nor was the claimant asked to resign or threatened with discharge or discipline. The claimant's choice to voluntarily quit, may have been based upon good personal reasons, but it was not a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied.

DECISION:

The February 26, 2019, (reference 01) decision is affirmed. The claimant voluntarily left her 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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs