

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JENNIFER C COPELAND
Claimant

CITY OF SIOUX CITY
Employer

APPEAL 16A-UI-13119-JP-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/06/16
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 30, 2016, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on December 30, 2016. Claimant participated. Employer participated through assistant city attorney Justin Vondrak and Glenn Sedivy.

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 911 dispatcher from June 16, 2006, and was separated from employment on November 9, 2016, when she quit.

On the evening of October 27, 2016, claimant came to work and discovered she had to work overtime on October 28, 2016. Claimant had already worked two overtime shifts that week and was told she had to work the overtime on October 28, 2016 or find a replacement. Claimant went to her shift supervisor and told the shift supervisor she could not do this anymore. The shift supervisor stated she knows how claimant feels and the shift supervisor worked claimant's overtime shift on October 28, 2016. Prior to October 27, 2016, claimant had not gone to her supervisor and complained about working overtime.

Claimant's last day of work for the employer was on November 2, 2016. On November 2, 2016, claimant suffered from some medical issues due to a combination of a lot of things, including a surgery in April 2016, incorrect medication in June 2016, she started drinking in October 2016, and the employer was requiring her to work overtime hours. On November 7, 2016, claimant called Mr. Sedivy and told him she was going to have to resign. Mr. Sedivy asked claimant if she really wanted to and she stated she had to for herself and her family. Mr. Sedivy requested claimant provide a written resignation. On November 9, 2016, claimant provided a written letter of resignation. The employer accepted claimant's resignation. Claimant did not indicate why she was resigning in her letter of resignation.

Claimant did not request any accommodations from the employer. Claimant did not apply for Family and Medical Leave Act (FMLA) leave or a leave of absence. Claimant was eligible for both a leave of absence and FMLA leave. Claimant did not provide the employer with a doctor's note with any type of work restrictions. The employer was not aware of claimant's medical condition/issues. Claimant did not inform the employer of her health condition and that she intended to quit unless the problem was corrected or a reasonable accommodation was provided. When claimant was hired, she was aware that being a 911 dispatcher was a stressful job.

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. Benefits are denied.

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 Admin. Code r. 871-24.25(37) 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:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

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). A claimant who resigns for health reasons may be considered to have quit for good cause attributable to employer if certain criteria are met. Iowa Code § 96.5(1)(d). When a claimant resigns because of a health condition related to employment, the claimant is considered to have quit with good cause attributable to the employer if the claimant presents competent evidence showing health reasons related to the work justify the resignation, and before resigning the claimant informed the employer of the health condition and that she intended to quit unless the problem was corrected or a reasonable accommodation was provided. Iowa Admin. Code r. 871-24.26(6)(b).

Although claimant's medical condition/issues was the reason she quit, she failed to inform the employer of her medical condition/issues prior to quitting. Claimant did not inform the employer of her health condition and that she intended to quit unless the problem was corrected or a reasonable accommodation was provided. Furthermore, claimant failed to request any accommodations prior to quitting. The only time claimant approached the employer was on October 27, 2016, when she approached her shift supervisor about not being able to work overtime on October 28, 2016 and her shift supervisor then accommodated claimant's request not to work the overtime and the shift supervisor worked the overtime for claimant.

On November 9, 2016, claimant provided the employer a written letter of resignation, which the employer accepted. While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The November 30, 2016, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided she is otherwise eligible.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/rvs