

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

STEPHANIE L CONTRERAS

Claimant

APPEAL 21A-UI-10600-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEYS MARKETING COMPANY

Employer

OC: 02/07/21

Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quit from Employment

Iowa Admin. Code r. 871-24.26(6)b – Separation Because of Illness, Injury, or Pregnancy

STATEMENT OF THE CASE:

On April 16, 2021, the claimant, Stephanie L. Contreras, filed an appeal from the April 13, 2021 (reference 02) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit her employment on March 8, 2021, for personal reasons. The parties were properly notified of the hearing. A telephonic hearing was held at 8:00 a.m. on Thursday, July 1, 2021. Appeals 21A-UI-10600-LJ-T and 21A-UI-10601-LJ-T were heard together. The claimant, Stephanie L. Contreras, participated. The employer, Casey's Marketing Company, did not register a witness or representative and did not participate in the hearing. Claimant's Exhibits A and B were received and admitted into the record. The administrative law judge took official notice of claimant's unemployment insurance benefits records.

ISSUE:

Was the claimant discharged for no disqualifying reason or did the claimant quit her employment with 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, most recently as an assistant manager, from August 2020 until February 11, 2021.

Claimant worked at the employer's store in Riverside, Iowa. In January 2021, the employer reduced employees' hours company-wide. Claimant went from working full-time hours to working a reduced schedule. (Claimant's Exhibit B)

During early February 2021, the Riverside location was undergoing major construction and remodeling. Claimant provided photographs showing the extent of the construction and documenting the dust, mold, and debris caused or revealed by the construction. (Claimant's Exhibit B) This dust, mold, and debris aggravated claimant's respiratory system and made her ill.

During the week of February 7, claimant spoke to the employer about accommodating her by transferring her to another store “in town” in the immediate future. The employer had plans to do this with all employees some weeks into the future. Claimant requested the employer accelerate her transfer, due to her work-related health condition. Claimant notified the employer on February 10, 2021, that she would be going to the doctor the following day to seek care for these work-related health conditions.

On February 11, claimant contacted store manager Roger Liebhart via text message to report her diagnoses and to let him know that she could not return to work at the Riverside store while construction was occurring. She also spoke to Liebhart via telephone and he indicated he would get back to her with details on transferring to another location. Liebhart never contacted claimant. She followed up with him three or four days later, and he did not respond.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant’s separation was with good cause attributable to the employer.

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.

Iowa Admin. Code r. 871-24.26(6)b provides:

The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(6) Separation because of illness, injury, or pregnancy.

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 a 1992 decision, the Iowa Supreme Court stated:


We have held that an illness-induced quit is attributable to one's employer only under two circumstances. First, when the illness is either "caused or aggravated by circumstances associated with the employment," regardless of the employee's predisposition to succumb to the illness... Second, when the employer effects a change in the employee's work environment such that the employee would suffer aggravation of an existing condition if she were to continue working.... An illness or disability may correctly be said to be attributable to the employer even though the employer is free from all negligence or wrongdoing in connection therewith.

White v. Employment Appeal Board, 487 N.W.2d 342, 345 (Iowa 1992).

The evidence in the record supports a finding that claimant quit her employment with good cause attributable to the employer. Claimant began experiencing an illness caused by the dust, mold, and debris produced by the Riverside store's remodeling construction. She contacted her employer to let them know her doctor had diagnosed her with illnesses directly caused by this remodeling construction, and she informed the employer she could not return to work at the Riverside store while the remodeling construction was occurring. Claimant requested an accommodation in the form of a transfer and was waiting for Liebhart to contact her with information regarding the transfer. At that point, it was up to Liebhart to offer claimant an appropriate and non-detrimental work environment. The administrative law judge finds that claimant separated from employment with good cause attributable to the employer, and benefits are allowed.

DECISION:

The April 13, 2021 (reference 02) unemployment insurance decision is reversed. Claimant quit the employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.



Elizabeth A. Johnson
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July 12, 2021
Decision Dated and Mailed

lj/kmj