

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEBRA DONAHUE
Claimant

APPEAL NO: 19A-UI-05051-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MCKEE AUTO CENTER INC
Employer

OC: 05/19/19
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 13, 2019, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on July 18, 2019. The claimant participated in the hearing. Debbie McKee, Vice-President and Valerie Sanchez, Controller, participated in the hearing on behalf of the employer. Claimant's Exhibit A and Employer's Exhibits One through Ten were admitted into evidence.

ISSUE:

The issue is whether the claimant voluntarily left 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: The claimant was employed as a full-time controller for McKee Auto Center from July 25, 2018 to May 24, 2019. She voluntarily left her employment citing health issues she felt were caused by her employment.

On May 17, 2019, the claimant texted Vice-President Debbie McKee, who was on vacation, and said if she planned to terminate her employment she would like to know before Monday, May 20, 2019, so she did not have to drive 100 miles round trip. She then stated she was leaving for the day as she did not feel well. Ms. McKee was surprised as she had no intention of terminating the claimant's employment and called her. In light of the fact the claimant was leaving for the day, Ms. McKee asked the claimant about the bank reconciliation records as the claimant had not completed any since taking over as controller in January 2019. The claimant replied that she did not care and it was all in the general ledger before stating she had to go.

On Sunday, May 19, 2019, the claimant texted Ms. McKee that she was still having stomach issues and would not be in Monday, May 20, 2019, but would be in touch with the employer. On Monday, May 20, 2019, the claimant indicated she was sick and on her way to the doctor and Ms. McKee stated she hoped the claimant felt better. She then asked the claimant if she had paid for the floor plans and the claimant said she thought so. Ms. McKee asked if the sales tax was paid but was unclear on the claimant's response. On Tuesday, May 21, 2019, the claimant

texted the employer that she was not able to come in that day and Ms. McKee told her she needed to call. The claimant had a doctor's note excusing her from working May 20 through May 22, 2019, and stating she could return May 23, 2019 (Employer's Exhibit Three). On Thursday, May 23, 2019, the claimant texted Ms. McKee and said she still was not feeling well and was going back to the doctor and would call after her appointment. Ms. McKee did not hear from the claimant and tried to call her after 5:00 p.m. but did not get an answer. On Friday, May 24, 2019, the claimant and Ms. McKee spoke by phone and the claimant said her doctor said she could not return due to the stress level from her job. Ms. McKee asked her if she was resigning and the claimant repeated several times that she could not return. Ms. McKee asked the claimant what she was asking of her and the claimant repeated she could not return. She said she was going to try to get in to see her doctor and Ms. McKee said I guess you will be in touch and that was the last conversation between the parties.

The claimant testified that Ms. McKee and her husband, President Anthony McKee, had different priorities for the claimant which caused her stress. The claimant was also upset because during the week of May 6, 2019, she asked Valerie Sanchez, who assisted the claimant, if she was going to be at work on a particular Friday and Ms. Sanchez stated she was working Mondays through Thursdays and the claimant was unaware of that. She was further upset because on May 17, 2019, an insurance representative went to Ms. Sanchez first and she told the representative to speak to the claimant.

The claimant first saw her own physician May 28, 2019, and again June 5, 2019, due to "GI issues" (Claimant's Exhibit A). She was referred to a therapist in her doctor's office and diagnosed with situational anxiety "regarding a very stressful work environment" and it was recommended she "avoid the trigger" (Claimant's Exhibit A). That assessment was made after the claimant voluntarily quit her job.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

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

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. 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.

An individual who voluntarily leaves their employment due to an alleged work-related illness or injury must first give notice to the employer of the anticipated reasons for quitting in order to give the employer an opportunity to remedy the situation or offer an accommodation. *Suluki v. Employment Appeal Board*, 503 N.W.2d 402 (Iowa 1993). An employee who receives a reasonable expectation of assistance from the employer after complaining about working conditions must complain further if conditions persist in order to preserve eligibility for benefits. *Polley v. Gopher Bearing Company*, 478 N.W.2d 775 (Minn. App. 1991).

While the claimant was diagnosed with situational anxiety and told to avoid the "trigger" for her anxiety, which she stated was her work environment, she voluntarily quit before receiving a diagnosis or being told to quit her job.

Inasmuch as the claimant did not give the employer an opportunity to resolve her complaints prior to leaving employment, the separation was without good cause attributable to the employer. The claimant did not give the employer a copy of the physician's note or discuss her condition in that it was related to her work environment with the employer before voluntarily leaving her employment. The employer was unaware of the claimant's medical condition. Under these circumstances, benefits must be denied.

DECISION:

The June 13, 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn