

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STACEY L WILLIAMS
Claimant

APPEAL NO: 18A-UI-08342-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA CVS PHARMACY LLC
Employer

OC: 07/01/18
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 1, 2018, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on August 28, 2018. The hearing was held jointly with Appeal 18A-UI-08343-JC-T. The claimant participated personally. The employer contacted the Appeals Bureau prior to the hearing to state it would not participate in the hearing.

Claimant Exhibit A was admitted. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit the 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 full-time as a pharmacy technician/inventory specialist and was separated from employment on June 22, 2018, when she quit the employment without notice. Continuing work was available.

The claimant tendered her resignation from employment at the West Des Moines store to move to California. The claimant moved to California to be closer to her family, including a family member who was terminally ill.

Prior to quitting the employment, the claimant had inquired but did not secure a transfer to a store location in California (See fact-finding documents). After her separation and move, the claimant has accepted shifts as a per diem employee, with no guarantee of hours or shifts.

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.

The claimant has the burden of proof to establish she quit with good cause attributable to the employer. 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. See 871 IAC 24.25. "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. Industrial Relations Commission*, 277 So.2d 827 (Fla. App. 1973).

Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code section 96.2. *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993)(citing *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986) "[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.*

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(2) and Iowa Admin. Code r. 871-24.25(3), Iowa Admin. Code r. 871-24.25(23), and provide:

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:

- (2) The claimant moved to a different locality.
- (3) The claimant left to seek other employment but did not secure employment.
- (23) The claimant left voluntarily due to family responsibilities or serious family needs

Based on the evidence presented, the administrative law judge concludes the claimant quit the employment to move to California. She did not secure a transfer to a new store before quitting. The administrative law judge is not persuaded by the evidence presented that the claimant quit to accept other employment but rather quit to move and hoped to secure a transfer to avoid a gap in employment. No evidence was presented that the claimant had been promised or guaranteed such transfer either.

Therefore, based upon the evidence presented, the administrative law judge concludes the claimant's leaving the employment may have been based upon good personal reasons, but it was not for a good-cause reason attributable to the employer, according to Iowa law. Benefits must be denied.

DECISION:

The August 1, 2018, (reference 01) decision is affirmed. The claimant voluntarily left the 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.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn