

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DOLORES M FARRELL
Claimant

APPEAL NO. 13A-UI-03445-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALUM LINE INC
Employer

OC: 02/17/13
Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Dolores Farrell, filed an appeal from a decision dated March 13, 2013, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on April 24, 2013. The claimant participated on her own behalf. The employer, Alum Line, participated by Office Manager Carol Bollman, Sales Manager Dave Anderson, Owner Gary Gooder and Operations Manager Jeff McAllister.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Dolores Farrell was employed by Alum Line from May 27, 2003 until February 13, 2013 as a full-time accounts receivable clerk. Her last day of work was January 30, 2013, and she was absent from work after that. She provided a doctor's excuse for January 31 through February 10, 2013, and was to return to work February 11, 2013. She was no-call/no-show to work February 11, 12, and 13, 2013.

The employee handbook states three days of no-call/no-show to work is considered a voluntary quit. Alum Line sent the claimant a letter on February 13, 2013, after her third consecutive no-call/no-show, and later the same day received a certified letter from Ms. Farrell stating she quit for her "physical and mental well being" and alleged harassment and emotional distress of the job situation. Ms. Farrell had received a written warning January 23, 2013, for substantial errors in a price book which had been her responsibility and a warning by e-mail on January 31, 2013, for insubordination.

Ms. Farrell was being treated by a doctor and a social worker about that time but neither of them had specifically recommended she resign. Neither had provided written directions to the employer for accommodations to the claimant's work duties or environment. The claimant did not request any accommodations herself or apply for a leave of absence.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

871 IAC 24.25(28), (4) 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:

(28) The claimant left after being reprimanded.

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The actual precipitating factor in Ms. Farrell's resignation was the two final warnings given January 23 and 31, 2013. It was her contention she had been receiving a lot of warnings because she had filed a complaint of sexual harassment in December 2009, which the investigation by the Civil Right Commission determined to be unfounded. But at the same time she acknowledged the many errors she had made which caused the warnings.

Neither her doctor nor the social worker recommended Ms. Farrell resign and neither of them had made any official request that the employer make specific accommodations for her. She elected not to continue working. The record does not establish she had good cause attributable to the employer under the provisions of the above Administrative Code sections. The claimant is disqualified.

DECISION:

The representative's decision of March 13, 2013, reference 01, is affirmed. Dolores Farrell is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount in insured work, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs