

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NANCY J STONEKING
Claimant

APPEAL NO. 11A-UI-06014-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PRIORITY COURIER INC
Employer

OC: 04/03/11
Claimant: Appellant (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Nancy Stoneking, filed an appeal from a decision dated April 27, 2011, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on June 1, 2011. The claimant participated on her own behalf. The employer, Priority Courier, participated by Regional Manager Fred Anderson, Human Resources Manager Nancy Bengel, and Terminal Manager Dennis Giesler.

ISSUE:

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

FINDINGS OF FACT:

Nancy Stoneking was employed by Priority Courier from September 17, 2007 until April 6, 2011 as a full-time billing clerk. In October 2010, the claimant filed a claim for workers' compensation because of the "emotional distress" due to working with another billing clerk, Angie. The employer agreed to a leave of absence and she returned November 1, 2010, with doctor's orders to be on part-time hours. The employer accommodated this and when she was returned to work full-time effective December 14, 2010, her hours and work area were modified so that she would have minimal contact with Angie.

In January 2011, she went to Terminal Manager Dennis Giesler to complain about Angie again. He talked with both clerks and determined it was a personal problem between the two of them that the employer would not be able to address any more than it already had. The claimant wanted a meeting between her and Angie with a mediator, which Mr. Giesler denied, as he felt the employer had done as much as it could with their personal problem. She did not go to the human resources department or Mr. Giesler's supervisor to make the request but continued to work with Angie.

On April 5, 2011, she had an accident at work where she hit her left elbow. She reported it to the employer and was sent for medical treatment the same day. The doctor told her to use over the counter pain relievers, put ice on it, and keep it in a sling. He did not tell her to take time off

from work. The next day, Ms. Stoneking came to work and notified Human Resources Manager Nancy Bengé she was quitting. She was instructed to notify Mr. Giesler and fill out a resignation form, which she did.

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(6) 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:

(6) The claimant left as a result of an inability to work with other employees.

The claimant quit because she did not get along with her co-worker. The employer accommodated her requests for part-time work, then for full-time work at different hours. The work space was rearranged to minimize contact between the two clerks. There was no final event regarding Angie that precipitated the decision to resign. The claimant knew she could contact human resources with concerns, and even the owner, because she had done so in the past. She elected not to pursue her demands for a mediation with Angie and, indeed, worked relatively well with her for several months.

The injury on April 5, 2011, was reported and addressed immediately. The claimant was returned to work by the doctor and did not request any additional time off. Instead, she elected to quit because it made her more overwrought, although there is no indication the injury was due to any negligence on the part of the employer or had anything to do with Angie.

The claimant appears to have medical problems that are non-work-related which exacerbated the personality conflict with Angie but which the employer could not cure. "Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (Florida App. 1973). The claimant does appear to be more sensitive to the situation than was warranted by all the given facts. She complained about not only Angie but the fact she felt her supervisor expressed concerns that her doctor was not helping her and that he stated she was not the same happy person he had known in the past, and she admitted this was true. The claimant's overly sensitive nature created and expanded the situation in spite of efforts on the part of the employer to address it.

The record establishes the claimant did not have good cause attributable to the employer for quitting and she is disqualified.

DECISION:

The representative's decision of April 27, 2011, reference 01, is affirmed. Nancy Stoneking is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw