



IN THE COURT OF APPEALS OF IOWA

CITY OF DES MOINES,

)

Petitioner-Appellant,

)

vs

)

IOWA DEPARTMENT OF JOB SERVICE)

and YVONNE L. DAVIS,

)

Respondents-Appellees.

Filed July 30, 1987

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7-169
86-1168

Appeal from the Iowa District Court for Polk County (AA-920), James W Brown, Judge.

The City of Des Moines appeals from the district court affirmance of the decision of the Department of Job Service to award unemployment compensation benefits to claimant. **AFFIRMED.**

Nelda Barrow Mickle, City Solicitor, for petitioner-appellant.

William C. Whitten and Blair H. Dewey, Employment Appeal Board, for respondents-appellees.

Heard by Oxberger, C.J., and Donielson and Hayden, JJ.

HAYDEN, J.

The City of Des Moines (City) appeals from the district court affirmance of the decision of the Department of Job Service to award unemployment compensation benefits to claimant, Yvonne Davis. Job Service found claimant left her work voluntarily due to job-related stress, which the department determined constituted good cause attributable to her employer. On appeal the City asserts: (1) there was not substantial evidence to support the finding of good cause attributable to the City when the record is viewed as a whole; and (2) the failure of claimant to cooperate with the City to achieve resolution of her alleged medical condition barred her from obtaining unemployment benefits. We affirm.

Our scope of review in an appeal from a final agency decision is at law, not de novo. We are limited to the record made before the agency. Taylor v Iowa Department of Job Service, 362 N.W.2d 534, 537 (Iowa 1985); Green v Iowa Department of Job Service, 299 N.W.2d 651, 655 (Iowa 1980). The determination to be made is whether the decision by Job Service is supported by substantial evidence when the record is viewed as a whole. Iowa Code § 17A.19(8)(f) (1987). We are bound by the findings of the agency if they are supported by substantial evidence. Hawk v. Jim Hawk Chevrolet-Buick, Inc., 282 N.W.2d 84, 85 (Iowa 1979). Evidence is substantial if a reasonable person would find it adequate to reach the given conclusion. Mercy Health Center v State Health Facilities, 360 N.W.2d 808, 811-12 (Iowa 1985); Messina v. Iowa Department of Job Service, 341 N.W.2d 52, 59 (Iowa 1983).

The record reflects claimant was employed full-time as a parking checker at the Des Moines Airport by the City from April 22, 1981, until October 2, 1984. On October 2, after approximately one and one-half months of medical leave, claimant voluntarily quit due to medical problems allegedly caused

by job-related stress. This stress was primarily the result of confrontations with members of the public indignant at receiving parking tickets. Claimant thereafter applied for unemployment benefits, relying upon Iowa Administrative Code section 370-4.26, which provides in pertinent part:

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:

4.26(1) . . .

* * *

4.26(18) The claimant was compelled to leave employment because of an illness or allergy condition that was attributable to the employment. Factors or circumstances directly connected with employment which result in illness or disease to an employee and make it impossible for the employee to continue therein because of serious danger to the employee's health, and the employee left employment upon the advice of a licensed and practicing physician, termination of employment may be held to be involuntary and constitute good cause attributable to the employer.

Before Job Service, claimant's doctor testified he had treated claimant throughout 1983 and 1984 for situational depression caused, in his opinion, by her employment. He based this conclusion in part upon the improvement in her condition when she was away from the work situation. On September 24, 1984, he purportedly orally advised claimant to resign and consider a different job. He reduced this advice to writing initially on October 3, stating:

To Whom It May Concern: I have suggested that Ms. Davis' job situation was contributing to her ill health and that she should consider a different job and resigning from her current position.

He later wrote another letter after the hearing officer informed claimant the first letter could not be accepted as a directive from her doctor to quit her job due to its suggestive rather than directory nature. This second letter, dated January 11, 1985, was more affirmative, stating:

To Whom It May Concern: Yvonne Davis was under my care throughout 1984 for health problems stemming from her employment.

As a result of this, I advised Yvonne to resign from her position. If I may be of further assistance, please contact me.

At the hearing, claimant's doctor stated it was reasonable of claimant to assume he had advised her to resign from her job based upon his conversation with her.

On appeal the City asserts this evidence is insufficient to support a finding of "illness" or "advice," as required by Iowa Administrative Code section 370-4.26(18). The City contends the letters and testimony of claimant's doctor lack the specificity regarding claimant's illness to constitute sufficient support. The City also appears to assert the claimant must show fault or wrongdoing on the part of the City to prove good cause attributable to it. We disagree.

We conclude the finding by Job Service that claimant suffered situational depression caused by job-related stress and was therefore advised by her doctor to quit her job is supported by substantial evidence. Claimant was treated for over two years for situational depression. This treatment included prescriptions for antidepressant and anti-anxiety drugs. Claimant's doctor stated her condition improved when she was away from the work situation, indicating to him a causal relationship between her work and her illness. He concluded she ought to leave the employment occasioning her distress and advised her to do so.

We also conclude claimant need not show fault or wrongdoing on the part of the City to prove good cause attributable to it. Showings of employer fault or wrongdoing are certainly indicative of good cause attributable to the employer and have been so utilized in the past. See Ellis v. Iowa Department of Job Service, 285 N.W.2d 153 (Iowa 1979). However, voluntary quits may be attributable to the employer merely due to the conditions and consequences of the employment. They need not be based upon the fault or wrongdoing

of the employer. McComber v. Iowa Employment Security Commission, 254 Iowa 957, 962, 119 N.W.2d 792, 795-96 (1963); Raffety v. Iowa Employment Security Commission, 247 Iowa 896, 898, 76 N.W.2d 787, 788 (1956). There is substantial evidence to support the finding of Job Service that the conditions of claimant's employment caused the illness and she followed her doctor's advice to resign.

The City also alleges claimant and her doctor failed to cooperate with it to achieve resolution of claimant's medical problems. The City asserts claimant's unemployment was caused by this failure to cooperate rather than her job-related illness. Job Service disagreed. We find substantial evidence in the record to support the agency decision.

The City implies claimant's cooperation would have resulted in her continued employment despite her illness. The record reflects, however, claimant had applied for numerous other jobs with the City with no success. Furthermore, the director of her department testified there were no positions within the department to which claimant could have been transferred. In short, there is substantial evidence no alternative position existed with the City which she could occupy. We conclude the record reflects evidence a reasonable person would find adequate to conclude claimant's unemployment was caused by her job-related illness rather than her alleged failure to cooperate with the City to resolve her medical problems.

AFFIRMED.