

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

VINCENT MOODY
Claimant

CIRCLE OF LIFE REHABILITATION SER
Employer

APPEAL 21A-UI-01271-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/07/20
Claimant: Appellant (2)

Iowa Code section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 10, 2020, reference 03, unemployment insurance decision that denied benefits based upon the conclusion he quit because he was dissatisfied with working conditions. The parties were properly notified of the hearing. A telephone hearing was held on February 17, 2021. The claimant participated. The employer did not participate. The administrative law judge took official notice of the agency records.

ISSUE:

Whether the claimant voluntarily quit 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 house manager from June 18, 2020, until this employment ended on September 27, 2020, when he quit. His immediate supervisor was Regional House Manager Irwin Feke.

The Iowa Department of Human Services requires a report any time there is a critical incident such as a medication error or failing to provide medication to a resident.

On September 12, 2020, the employer's staff discovered medication was not dispensed to a client as scheduled when they found it in a storage cabinet.

On September 13, 2020, the claimant sent in a report to the case manager assigned to this patient. However, the claimant hit the wrong button and erroneously designated the report to the wrong insurance company.

On September 15, 2020, the claimant talked to Mr. Feke about his concerns and suggested a revised report needed to be made to the case manager to the right insurance company.

Mr. Feke told the claimant he would handle it. Despite this promise, Mr. Feke did not make a revised report to the case manager.

On September 15, 2020, the claimant spoke with Owner Karen Leonard about filing a revised report. Ms. Leonard told the claimant he should not make a revised report to the case manager because it would not be made within the 48 hour timeframe outlined by the Iowa Department of Human Services. It was 72 hours after the incident occurred at that point. The claimant explained to Ms. Leonard that he could make an argument it was reported in the 48 hour window because the case manager received the report earlier it was just designated to the wrong insurance company. Ms. Leonard asked the claimant, "Why are you still worried about this?" The claimant explained that he could be fined by the Iowa Department of Human Services and accused of Medicaid fraud.

On September 27, 2020, the claimant informed Ms. Leonard that he was resigning because she asked him not to file a report which may have resulted in him being fined and accused of Medicaid fraud. After resigning, the claimant made the report to the Iowa Department of Human Services.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment with good cause attributable to the employer.

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. 871-24.26(1) 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:

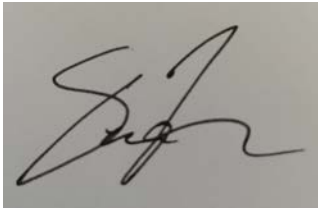
- (3) The claimant left due to unlawful working conditions.

Generally notice of an intent to quit is required by *Cobb v. Employment Appeal Board*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Employment Appeal Board*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Employment Appeal Board*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). These cases require an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. Accordingly, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added, however, to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court recently concluded that, because the intent-to-quit requirement was added to 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

In this case, the claimant attempted to notify management of his reasons for quitting several times prior to his resignation, even though this is not required. The claimant quit because he felt he was being asked to engage in illegal activity when Ms. Leonard told him he could not properly report the medication error. Benefits are granted.

DECISION:

The December 10, 2020, reference 03, unemployment insurance decision is reversed. The claimant voluntarily left employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

A handwritten signature in black ink, appearing to read 'Sean M. Nelson', is shown within a rectangular box.

Sean M. Nelson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 725-9067

February 26, 2021
Decision Dated and Mailed

smn/scn