

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

RUNIEKA S. THOMAS
Claimant

PEOPLES COMMUNITY HEALTH CLINIC
Employer

APPEAL 23A-UI-00933-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/25/22
Claimant: Appellant (1)**

Iowa Code §96.5(1)- Voluntary Quit
Iowa Admin. Code r. 871-24.25-Voluntary Quit

STATEMENT OF THE CASE:

On January 30, 2023, the claimant/appellant filed an appeal from the January 20, 2023, (reference 01) unemployment insurance decision that denied benefits based on claimant voluntarily quitting on November 30, 2022 because she was dissatisfied with the work conditions. The parties were properly notified about the hearing. A telephone hearing was held on February 14, 2023. Claimant participated. Employer participated through Human Resources Director, Lorene Dehl. Exhibits 1, 2, 3, and 4 were admitted into the record.

ISSUE:

Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on January 27, 2020. Claimant last worked as a full-time Registered Nurse Health Coach. Claimant was separated from employment on November 30, 2022, when she resigned.

Beginning in July 2022 claimant began feeling harassed and bullied by the employer's new provider. Specifically the new provider asked claimant to speak with a patient and tell them that they were going to die if they did not take their medication as directed. Claimant found this to be unethical but agreed to speak with the patient to encourage them to comply

There were many instances where the provider asked claimant to do things that were not according to the employer's protocol or accuse claimant of not wanting to do the things the provider had asked her to do. For instances the provider asked claimant to call a patient and when claimant was not able to reach the patient the provider asked her to continually call the patient until they answered the phone. The employer's protocol was to call the patient three times in a day and follow up with a written letter.

In a separate incident claimant was asked to bring a patient inside. The new provider yelled at claimant down the hallway and asked her "What are you doing? Where is my patient?" Claimant explained that the provider's nurse was responsible for rooming the patient. The provider disagreed and reported it to claimant's supervisor.

The parties had numerous incidents that involved the new provider rolling her eyes at claimant and accusing her of things she did not do. The new provider complained to claimant's supervisor continuously. Claimant verbally reported her disputes with the new provider to her supervisor. Nothing was resolved between the two individuals. Claimant began experiencing anxiety, shortness of breath, chest pains, headaches, and migraines.

Claimant visited her doctor and underwent testing due to the symptoms she was experiencing. Claimant's results came back abnormal. When she returned from her appointment she found a note from the new provider that stated: "Really, why would you book this patient on a Saturday? You need to change this." Claimant was not responsible for booking the patient. Claimant decided that she needed to resign because the stress of interacting with the new provider was affecting her health.

Claimant submitted her written resignation to the employer. (Exhibit 2). Claimant did not submit a reason for her resignation in the resignation letter. (Exhibit 2). Claimant's last day was scheduled for December 5, 2022. Claimant's last day was November 30, 2022.

The employer has a harassment in the workplace and work related disputes policy. (Exhibits 3 and 4). Claimant acknowledged receipt of these policies on January 27, 2020. The employer's harassment in the workplace policy states:

"If an employee feels they are being harassed, it is the responsibility of that employee to first confront the harasser. Tell him/her that they find the behavior offensive, that it makes them uncomfortable, and ask them to stop the behavior. Should the harassing behavior continue, it should be reported immediately in writing to the employee's Supervisor, or to another Supervisor if the employee is uncomfortable discussing the issue with his/her Supervisor. The Supervisor will inform the CEO of the allegation, and then fully investigate the report, and take appropriate corrective/disciplinary action." (Exhibit 3, pg. 1-2).

The Work Related Disputes policy states:

"Step 1- Any employee having a work related issue or problem shall attempt to resolve such issues or problems by directly discussing it with his/her immediate supervisor. This should be done within five (5) working days from the date of occurrence or the employee's awareness of the problem.

Step 2- If the issue or problem is not resolved through informal discussions with the employee's immediate supervisor, the employee shall put the grievance in writing and submit it to the employee's immediate supervisor. The written grievance should be received by the immediate supervisor within five (5) working days from the meeting between the employee and immediate supervisor noted in Step 1.

Within five (5) working days after the written grievance has been filed, the employee shall meet with the employee's immediate supervisor and human resources administrator, by mutual agreement, and attempt to resolve the grievance. The time period may be extended by mutual agreement between the parties. If the grievance is not resolved in Step 2, it will be referred to Step 3.

Step 3- Within five (5) working days, if the grievance has not been resolved in Step 2, the employee, the immediate supervisor, and the next level of supervision shall meet together, by mutual agreement, and attempt to resolve the grievance. The time period may be extended by mutual agreement between the parties.

Step 4 - If no agreement is reached in Step 3, the employee may file an appeal with the Clinic's Chief Executive Officer for review..." (Exhibit 4, pg. 1-2).

Claimant did not submit a written complaint regarding the incidents that occurred between herself and the new provider.

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.

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.

Iowa Admin. Code r. 871-24.25 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:

Iowa Admin. Code r. 871-24.25(6)

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

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "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. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

The administrative law judge finds that claimant left because she could no longer work with another employee. Claimant and the new provider were at constant odds with each other and both parties verbally complained to the employer. The disputes lead to claimant submitting her resignation. While claimant's leaving may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The January 20, 2023, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left her 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.



Carly Smith
Administrative Law Judge

February 16, 2023
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.