

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DARJHAE S LACKEY-LOMAX
Claimant

APPEAL 22A-UI-06018-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**TRUSTEES OF THE GRAND CHARITY
FUND**
Employer

**OC: 09/26/21
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant/appellant, Darjhae Lackey-Lomax, filed an appeal from the March 3, 2022 (reference 04) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. After proper notice, a telephone hearing was held on April 18, 2022. The claimant participated personally. The employer/respondent, Trustees of the Grand Charity Fund, participated through Deann Milefchik, human resources director. Tammy Martin and Amanda Martin attended as observers. Official notice of the administrative record was taken. Claimant Exhibit A was admitted. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence, the administrative law judge finds: Employer does business as Iowa Masonic Health Facilities. Claimant began work on January 26, 2022. She was hired to be a full-time Certified Nursing Assistant (CNA). She last physically worked (by attending orientation) on January 28, 2022. Separation occurred on February 17, 2022. The evidence is disputed as to whether claimant quit or was discharged.

Claimant is a nursing student. When claimant was hired, she was informed that the employer was required by federal law to comply with the COVID-19 vaccine mandate. Claimant was informed as a condition of employment she would need to either present proof of vaccination or obtain a medical or religious exemption. Claimant at the time acknowledged she needed to be vaccinated and planned on becoming vaccinated.

At some point, claimant changed her mind about wanting to be vaccinated. She did not inform the employer of the change. She did not inform employer she wanted to obtain a medical exemption through her personal physician. Had she done so, the employer would have furnished a form for claimant to take to her doctor to complete, and employer would have complied with the exemption. Employer informed claimant she would need to be vaccinated by February 13, 2022 to begin on the job/floor training. See Claimant Exhibit A.

Employer coordinated scheduling with the claimant and had her scheduled to begin rounds on February 17, 2022. Employer contacted claimant on February 14, 2022 asking for a vaccine update. Claimant stated she did get the message. Claimant did not show up to her February 17, 2022 shift or respond to messages and calls made to her phone number on file.

Claimant stated at the hearing she figured she was fired based upon the letter regarding needing to be vaccinated and denied receipt of the messages or calls.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was not discharged but quit the employment without good cause attributable to the employer. Benefits are denied.

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. They remain disqualified until such time as they requalify for benefits by working and earning insured wages ten times their weekly benefit amount. *Id.* Where an individual mistakenly believes that he is discharged and discontinues coming to work (but was never told he was discharged), the separation is a voluntary quit without good cause attributable to the employer. *LaGrange v. Iowa Dep't of Job Serv.*, (No. 4-209/83-1081, Iowa Ct. App. filed June 26, 1984).

Claimant in this case was hired, and informed prior to and at the time of hire, that she would need to obtain the COVID-19 vaccine or an exemption as a condition of employment. Claimant agreed to this condition and informed employer she would. When claimant changed her mind about being vaccinated, she did not inform the employer or request how to obtain an exemption to retain employment. She did not show up to her shifts, and she did not respond to multiple efforts by the employer to contact her. Claimant took no reasonable steps to preserve her employment, or alternately, notify employer there was an issue that was making her contemplate ending the employment. The credible evidence in this case is that claimant, not employer, initiated the separation.

The administrative law judge is not persuaded that the letter informing claimant she would need to be vaccinated was construed to be a threat of discharge or termination letter as alleged by claimant. See Claimant Exhibit A. Had employer intended to discharge claimant effective February 13, 2022 for not being vaccinated, it would not have inquired on February 14, 2022 about her vaccine status, put her on the schedule for February 17, 2022, or continued to try and contact her when she did not show for that shift.

Claimant erroneously believed she was discharged, and discontinued all contact with the employer or reporting to work. This is akin to the *LaGrange* case above. Therefore, the administrative law judge concludes claimant may have had good personal reasons to quit, she

has not established she quit for good cause attributable to the employer, according to Iowa law. Benefits are denied.

DECISION

The March 2, 2022 (reference 04) initial decision is affirmed. Claimant voluntarily quit the employment without good cause. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.



Jennifer L. Beckman
Administrative Law Judge
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Iowa Workforce Development
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April 25, 2022
Decision Dated and Mailed

jlb/mh

NOTE TO CLAIMANT:

You may find information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>

Iowa Finance Authority also has additional resources at <https://www.iowafinance.com/about/covid-19-ifa-recovery-assistance/>