

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ADIS SMAJLOVIC
Claimant

VON MAUR INC
Employer

APPEAL 21A-UI-14875-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/21/21
Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

Adis Smajlovic, the claimant/appellant filed an appeal from the June 30, 2021 (reference 03) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on August 26, 2021. Mr. Smajlovic participated and testified. The employer participated through Brooke White, floor manager. Claimant's Exhibit A was admitted into evidence.

ISSUE:

Did Mr. Smajlovic voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Smajlovic began working for the employer on June 23, 2014. He worked as a full-time sales associate. On, or about, August 5, 2020, Mr. Smajlovic gave the employer notice that he was leaving employment to take a different job. Mr. Smajlovic began working for the United States Postal Service on August 29, 2020 as a full-time rural mail carrier.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code section 96.5(1)a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). 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).

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

In this case, Mr. Smajlovic voluntarily quit for the sole purpose of accepting other employment with the United States Postal Service (USPS). He began working for USPS in a full-time position about a week later. Mr. Smajlovic's voluntarily quit was not disqualifying because he quit for the sole purpose of accepting an offer of other employment. Benefits are allowed, provided he is otherwise eligible. No charges should accrue to the employer's account pursuant to Iowa Admin. Code r. 871-23.43(5).

DECISION:

The June 30, 2021 (reference 03) unemployment insurance decision is reversed. Mr. Smajlovic's separation from employment with this employer is not disqualifying because he voluntarily quit for the sole purpose of accepting other employment. Benefits are allowed, provided he is otherwise eligible. The employer's account shall not be charged for benefits pursuant to Iowa Code § 96.5(1)a.



Daniel Zeno
Administrative Law Judge

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August 31, 2021
Decision Dated and Mailed

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