

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RENEE M McGUIN
Claimant

HIGLEY MANSION CARE CENTER, LLC.
Employer

Case No. 21IWDUI2092

IWD Appeal No. 21A-UI-07620

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 02/07/21
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the March 10, 2021 (reference 04) unemployment insurance decision denying benefits. The parties were properly notified of the hearing. A telephone hearing was held on May 4, 2021. The claimant, Renee McGuin, participated personally. The employer, Higley Mansion Care Center, LLC. (Higley), participated through its director of operations, Joni Federspiel. Dietary Director Steve Robe also appeared for the hearing and testified. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records including the fact-finding documents. Higley's exhibits A through F also were admitted without objection.

ISSUES:

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:

At all times relevant to this appeal, Higley operated as a residential care center in Cedar Rapids, Iowa. The facility has since closed.

McGuin began working for Higley in July 2013 as the office manager. In this position, she worked Mondays through Fridays, 8:30 a.m. to 4:00 or 4:30 p.m. She reported to the facility administrator, who in turn reported to Federspiel. McGuin worked without incident until late December 2020.

In December 2020 or early January 2021, the position of activities director came open. Federspiel thought this position might be well-suited to McGuin's strengths, and asked if she wanted to transfer to the position. After some thought, McGuin accepted the offer and seemed excited about transition. She retained the same hours and general working conditions as with the office manager position.

McGuin struggled to develop her activities calendar, and did not feel supported in her new position. She did not get along well with the new administrator, who was hired in January 2021.

Moreover, McGuin had been assured by the prior administrator that she would be given additional compensation for providing tours of the facility to new residents. When McGuin asked why this compensation was not provided she was told she already was "on thin ice" with upper management.

On February 5, 2021, Federspiel held a staff meeting for management staff—including McGuin. During the meeting, Federspiel discussed the importance of keeping the building entrances and exits clear following snow storms, and stated that she expected management staff to help as needed with snow removal and salting of sidewalks. Although Higley employed a building maintenance person and contracted with a private contractor, in periods of heavy snow the maintenance person and contractor may not be able to act quickly enough.

McGuin objected to shoveling snow, and stated that she never in the past had been required to do so. A suggestion was made to rotate staff. Federspiel then stated that if someone did not feel comfortable shoveling, he or she could cover another management employee's inside duties, and that person could shovel. McGuin nevertheless became upset, and left the room.

McGuin re-entered the meeting several minutes later. Federspiel diverted the conversation to other topics, and McGuin appeared calm throughout the remainder of the meeting.

After the meeting was over, however, McGuin called the new office manager, Susan Hohbein, and stated she was leaving Higley and could not work there anymore. Hohbein later found McGuin's name tag and building keys on her desk.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 96.5(2)a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Here, there is no dispute McGuin was not terminated by Higley, but rather quit her position as activities director. Section 96.5(2)a therefore is inapplicable to the present facts. Iowa Code § 96.5(1) provides in turn:

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.

In general, a voluntary quit means the employee has discontinued the employment because the employee no longer desires to remain in the employment relationship. The claimant bears the initial burden to produce evidence that he or she quit with good cause attributable to the employer. The following reasons for a voluntary quit are presumed to be without good cause attributable to the employer:

- (21) The claimant left because of dissatisfaction with the work environment.
- (22) The claimant left because of a personality conflict with the supervisor.

....

- (28) The claimant left after being reprimanded.

....

- (33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

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

McGuin showed an intent to voluntarily leave her employment when she called Hohbein and stated she could not continue to work at the facility. McGuin *confirmed* this intent when she walked off her shift and subsequently dropped off her keys and name tag. Notably, no one at Higley requested she leave her employment. Reprimanding an employee and/or telling an employee she is "on thin ice" is not synonymous with asking her to resign.

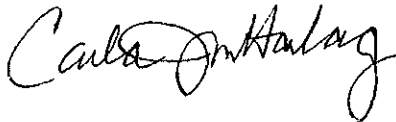
Robe testified credibly that Federspiel did not single McGuin out during the February 5, 2021 meeting, but rather directed the discussion toward all managerial employees. In fact, when McGuin raised concerns about shoveling, Federspiel attempted to reach a compromise position. McGuin was understandably embarrassed about becoming upset and needing to leave the room. The record does not support, however, that McGuin had been subjected to repeated, pervasive harassment from other employees and/or supervisors.

During the hearing, McGuin also alleged that she was promised, but never given, additional compensation for touring new residents. The terms of the promise are not clear from the record, however, nor is there evidence she raised this issue with Federspiel prior to leaving on February 5, 2021.

A claimant has the burden to prove that a 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, 829 (Fla. Dist. Ct. App. 1973). Here, McGuin may have had good personal reasons for choosing to leave her employment, and was certainly free to do so. Nevertheless, she did not quit because of any good cause attributable to the employer. Benefits are denied.

DECISION:

The March 10, 2021 (reference 04) unemployment insurance decision is affirmed. Claimant voluntarily quit employment. Benefits are denied.



Carla J. Hamborg
Administrative Law Judge

May 5, 2021
Decision Dated and Mailed

CJH/aa

cc: Renee M McGuin, Claimant (by first class mail)
Higley Mansion Care Center, LLC., Employer (by first class mail)
Nicole Merrill, IWD (by email)
Joni Benson, IWD (by email)

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.