

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KELLY R GLASSGOW
Claimant

ALEGENT HEALTH-MERCY HOSP CORP
Employer

APPEAL NO. 22A-UI-00453-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/07/21
Claimant: Appellant (1)**

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated November 24, 2021, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on January 26, 2022. Claimant participated. Employer participated by hearing representative Nisha Jafari and witnesses Kurt Sargent and Gary Pontius. Claimant's Exhibits A-B were admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on October 14, 2021. On that date claimant submitted his immediate resignation as his request for a religious exemption from getting a Covid vaccine shot was denied. Claimant chose not to further follow the company's appeal process and instead immediately quit his position.

Employer's documents indicate that no action was to begin until after November 1, 2021 and that the actions would begin with a posting of positions, and a notice of termination being given to those who'd had their requests for exemptions denied "if" a replacement were to be found from the search. Said search would not begin until November and was of unknown length.

Claimant stated he chose to resign when he did as he believed a further appeal would have been to no avail, and that employer was planning on replacing him.

There was still ongoing work available to claimant for an unknown time period of at least 45 days, but potentially much longer, at the time of his quit.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

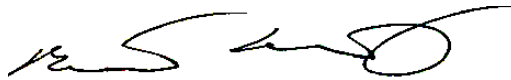
1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because he was told that sometime in the future he would be terminated for his vaccine refusal once a suitable replacement could be found. As claimant could have first exhausted all of his appeals within the company (which he chose not to do), and employer would have had to go through the entire hiring process before giving claimant two weeks' notice of termination.

Here, it is undisputed that no action would be taken until November 1, 2021. At that time, the process may have begun (employer's witness stated the entire process was still in flux on October 14, 2021) to find a replacement for employer's position. Assuming that the process were to take some period of time, and claimant was to get two weeks' notice prior to his termination, claimant had, at a minimum 30 days of work left when he quit, and at a maximum, an undefined term of many months or years of ongoing work.

DECISION:

The decision of the representative dated November 24, 2021, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.



Blair A. Bennett
Administrative Law Judge

February 17, 2022
Decision Dated and Mailed

bab/scn