

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

MICHELLE BAKER
Claimant

APPEAL NO: 15A-UI-03224-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SECURITAS SECURITY SERVICES USA
Employer

OC: 02/01/15
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 5, 2015, reference 02, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on May 21, 2015. The claimant participated in the hearing. Brandon Maeglin, Area Human Resources Manager and Michele Hawkins, Employer's Representative, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time security officer for Securitas Security Services USA from June 11, 2014 to October 6, 2014. She voluntarily left her employment because she thought the employer was going to terminate her employment.

The claimant was assigned to work at Principal Financial Group's downtown Des Moines location. On October 3, 2014, the employer called the claimant because she was 45 minutes late as the schedule had been changed and she was unaware of that fact. The scheduling supervisor told the claimant she was on the "verge" of receiving a last written warning which could result in her termination from employment. The claimant decided there was no point in returning to work because she assumed she was going to be discharged. Consequently, she did not show up for her shifts October 4, 5 or 6, 2014. On October 6, 2014, the claimant's supervisor talked to her and she stated she was dealing with personal medical issues. Because the claimant indicated her absences were health related, her supervisor scheduled a meeting with human resources for the claimant to attend at 3:30 p.m. that day to discuss the situation. The claimant assumed she was going to be discharged and was only being asked to come in to sign the termination paperwork so she did not call or show up for the meeting and the employer concluded she voluntarily left her employment effective October 6, 2014.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

Iowa Code § 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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

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). "Good cause for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (Florida App. 1973). 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 cause attributable to the employer. LaGrange v. IDJS, (Unpublished, Iowa App. 1984).

While the claimant called in to report she would be late October 3, 2014, because the schedule was changed on short notice, and she was told that she was on the "verge" of receiving a last written warning, the employer never told her that her employment was terminated. Additionally, the scheduling supervisor does not have the authority to discharge an employee. The claimant then failed to call or show up for work for the next three days, October 4, 5 and 6, 2014, which evinced an intention to voluntarily quit and is considered an overt act constituting a voluntary leaving of employment. When her supervisor called her October 6, 2014, and she explained she was experiencing health problems, he scheduled a meeting with human resources so the claimant would have an opportunity to discuss her specific situation and allow her the chance to save her job. If the claimant's last absences prior to the no-call no-shows were due to illness, the employer was willing to reevaluate its determination that the claimant chose to voluntarily quit her employment. Instead of participating in the meeting and attempting to save her job, however, the claimant simply assumed her employment was being terminated and did not call or show up for the three days before the meeting.

Because the claimant failed to call or show up for her job October 4, 5 or 6, 2014, or to attend the meeting scheduled with human resources to discuss the situation, and instead just presumed her employment was terminated without being told that was in fact the case, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer as she has not demonstrated that her leaving was for unlawful, intolerable, or detrimental working conditions as required by Iowa law. Therefore, benefits are denied.

DECISION:

The March 5, 2015, reference 02, 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs