

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NESHA L NEWSON
Claimant

IMAGINE THE POSSIBILITIES INC
Employer

APPEAL 21A-UI-03992-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/29/20
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

Nesha Newson (claimant) appealed a representative's January 25, 2021, decision (reference 01) that concluded ineligibility to receive unemployment insurance benefits due to voluntarily quitting with the Imagine the Possibilities (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for April 1, 2021. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. The administrative law judge took official notice of the administrative file.

ISSUE:

The issues include whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on January 17, 2020, as a full-time caretaker. On November 7, 2020, the claimant was injured at work. She was using cleaning chemicals required by the employer when they caused a chemical reaction. The claimant could not breathe and started gagging. She reported the injury to her direct on-site supervisor and asked for transport to the hospital. The employer called the claimant's mother to transport her.

After the claimant was released from the emergency room, she and her mother returned to the employer with her doctor's note. The note indicated she could return to work on November 24, 2020. The claimant completed a first report of injury.

While on medical leave for her injury, the employer notified her that she was to return to work on November 16, 2020, or be disciplined. The employer disregarded the emergency room note. The claimant went to her doctor on November 15, 2020. Her doctor continued her treatment for her injuries. The doctor's note released the claimant to return to work on November 23, 2020.

The claimant took the doctor's note to the human resources office. Personnel at the office told her she had to give the note to a specific person and that person was unavailable for days. The claimant asked if she could leave a copy of the note for the person. Personnel at the office told her she could not. The claimant faced being disciplined and terminated for not appearing for work. She told the employer she was giving two-weeks' notice of resignation. The employer told her not to come in at all during the two weeks. The claimant quit work rather than be forced to work against her doctor's orders.

The claimant filed for unemployment insurance benefits with an effective date of November 29, 2020. Her weekly benefit amount was determined to be \$512.00. The claimant received benefits of \$512.00 per week from November 29, 2020, to the week ending January 16, 2020. This is a total of \$3,584.00 in state unemployment insurance benefits after November 29, 2020. She also received \$900.00 in Federal Pandemic Unemployment Compensation as of the week ending January 16, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

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.

Iowa Admin. Code r. 871-24.26(4) provides:

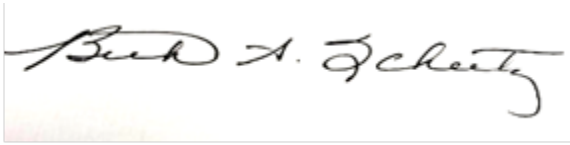
Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

- (4) The claimant left due to intolerable or detrimental working conditions.

The law presumes a claimant has left employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). The Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. *Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant*, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The claimant notified the employer of her intolerable working conditions. The supervisor required her to work during a time when the claimant's doctor restricted her from working. The claimant went to the human resources department for help and they would not accept the doctor's note. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits, provided she meets all the qualifications.

DECISION:

The representative's January 25, 2021, decision (reference 01) is reversed. The claimant voluntarily quit with good cause attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible.

A handwritten signature in black ink, reading "Beth A. Scheetz", is positioned above a horizontal line.

Beth A. Scheetz
Administrative Law Judge

April 6, 2021
Decision Dated and Mailed

bas/kmj