

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**GLADIS B AGUIRRE**  
Claimant

**MOSAIC**  
Employer

**APPEAL 17R-UI-03210-DL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/01/17**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the January 24, 2017, (reference 01) unemployment insurance decision that denied benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on April 18, 2017. Claimant participated. Employer did not respond to the hearing notice instruction and did not participate.

**ISSUE:**

Did claimant voluntarily quit the employment with good cause attributable to employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time direct support associate working with special-needs adults. Her last day of work was November 1, 2016. Her father was terminally ill so the employer agreed to give her a two-week leave since she had worked there less than a year and was not eligible for Family and Medical Leave Act (FMLA) leave. She took the leave beginning November 2, 2016. Her father died on November 10 and his funeral was on November 12, 2016. She did not return to Iowa until December 19, 2016. She had estate matters to attend to but could have handled them by mail or e-mail.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

Iowa Code section 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.

Iowa Admin. Code r. 871-24.25 provides, in pertinent part:

**Voluntary quit without good cause.** 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

While the employer has the burden to establish the separation was a voluntary quitting of employment rather than a discharge, 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). 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).

Claimant is considered to have quit the employment by her failure to return to work at the end of the two-week leave of absence by more than a month. There is no credible evidence the employer extended the leave period and claimant admittedly could have handled estate matters by other than in-person communication. While claimant's leaving the employment was based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Even were the separation considered to be a discharge, the separation would be disqualifying since claimant failed to return to work at the conclusion of the two-week leave of absence without permission to extend it.

**DECISION:**

The January 24, 2017, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the 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.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

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