

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CINNAMON L WILLIAMSON
Claimant

CARE INITIATIVES
Employer

APPEAL 19A-UI-09231-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/27/19
Claimant: Respondent (2)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated November 19, 2019, (reference 01) that held claimant eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on December 17, 2019. Employer participated by Lori Harvey, Administrator and was represented by Alyce Smolsky of Talx/Equifax.. Claimant failed to respond to the hearing notice and did not participate. Employer's Exhibits 1-3 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 August 29, 2019. Claimant did not return to work after that date. Employer had continued work available for claimant through October 28, 2019.

Claimant began working for employer as a full-time certified nursing assistant on August 29, 2018. Claimant contacted the employer and requested to change her work status to PRN, or as needed on August 29, 2019. Under employer's rules PRN employees are required to successfully complete monthly in-service video training, and employees should accept work assignments when called by employer. Claimant was given a copy of employer's workplace rules at the time of hire, and employer went over PRN employment with claimant on August 29, 2019.

Claimant moved from the Creston area to Des Moines on or about September 1, 2019 to attend school. Employer contacted claimant several times during the month of September to give her work assignments. Claimant refused to come into work because she was busy, and because she did not have transportation from Des Moines to Creston. Employer also contacted claimant to remind her that she needed to complete her in-service training. Claimant did not comply with employer's requests.

Claimant did not come into work during the month of October, 2019. Employer offered claimant work assignments, and she was texted on October 3, 2019 and reminded that she had to complete her in-service training. Claimant did not accept any offers of work, and she did not complete her in-service training for September, or October, 2019.

On October 28, 2019 employer reviewed claimant's personnel record. Employer noted that claimant had been offered work 12 times during September, and October, 2019 and claimant refused to come into work each time. It also noted that claimant did not complete her required in-service training for September, and October, 2019. Employer determined that claimant had abandoned her employment on that date.

REASONING AND CONCLUSIONS OF LAW:

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 she moved to Des Moines to attend school.

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(1) provides:

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:

- (1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

Iowa Admin. Code r. 871-24.25(2) provides:

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:

- (2) The claimant moved to a different locality.

Iowa Admin. Code r. 871-24.25(26) provides:

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:

(26) The claimant left to go to school.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 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).

While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer. Benefits must be denied.

DECISION:

The decision of the representative dated November 19, 2019, (reference 01) is reversed. 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.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

dlg/scn