

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRITTNEY A ROHLFS
Claimant

CASEYS MARKETING COMPANY
Employer

APPEAL 21A-UI-25255-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/26/21
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quit from Employment
Iowa Code § 96.5(2)a – Discharge from Employment

STATEMENT OF THE CASE:

On November 12, 2021, claimant Brittney A. Rohlfis filed an appeal from the November 2, 2021 (reference 01) unemployment insurance decision that denied benefits based on a determination that the claimant voluntarily quit her employment without good cause. The parties were properly notified of the hearing. A telephonic hearing was held at 10:00 a.m. on Monday, January 31, 2022. The claimant, Brittney A. Rohlfis, participated. The employer, Casey's Marketing Company, participated through Julie Freeburg, Manager. No exhibits were offered or admitted into the record.

ISSUE:

Did the claimant quit the employment without good cause attributable to the employer or was she discharged for reasons related to job misconduct sufficient to warrant a denial of unemployment benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for Casey's Marketing Company on February 17, 2021. She was employed most recently with the employer as a full-time second assistant manager. Her employment ended on September 16, 2021, when she was discharged.

On September 16, claimant sent Freeburg a text message reporting that she had been exposed to COVID-19. Specifically, claimant had been around three family members who all tested positive for the virus. Claimant is not vaccinated, and she believed that she was required to quarantine for two weeks before returning to work. Freeburg, however, wanted claimant to continue working as she did not live with the people who had COVID-19 and she herself did not have a fever. The conversation did not reach a resolution that day. Claimant believed she was allowed to quarantine and would be put on the schedule again in October. Freeburg believed claimant would be returning to work.

Several days later, claimant received an email from the employer's corporate office requesting an exit interview. She reached out to Freeburg asking what happened, and she did not receive a response. Freeburg admits that she did not tell the claimant that her job was in jeopardy or she would lose her job if she quarantined instead of returning to work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did not quit but was discharged from employment for no disqualifying reason. Benefits are allowed.

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.

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. The burden of proof rests with the employer to show that the claimant voluntarily left the employment. *Irving v. Empl. App. Bd.*, 15-0104, 2016 WL 3125854, (Iowa June 3, 2016).

A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). It 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). Where there is no expressed intention or act to sever the relationship, the case must be analyzed as a discharge from employment. *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

In this case, the parties agree that the employer – not the claimant – made the determination to end the employment relationship. Therefore, this case will be analyzed as a discharge from employment.

Iowa Code § 96.5(2)a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:
 - a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.32(1)a provides:

Discharge for misconduct.

- (1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition of misconduct has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Reigelsberger v. Emp't Appeal Bd.*, 500 N.W.2d 64, 66 (Iowa 1993); accord *Lee v. Emp't Appeal Bd.*, 616 N.W.2d 661, 665 (Iowa 2000). Further, the employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982).

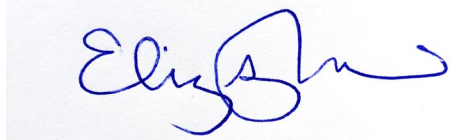
It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of 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.*

After assessing the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge finds the claimant provided the more credible description of the quarantine rule. The employer did not articulate a clearly-defined COVID-19 policy or produce one for the hearing. While it was not obligated to provide any policy as an exhibit, in the absence of a written policy, the administrative law judge finds that the policy the claimant described makes the most sense and comports with most employment practices. Claimant believed she needed to quarantine for fourteen days.

In this case, the claimant was discharged from employment after deciding to quarantine following exposure to COVID-19. The claimant believed she was following the employer's policy as an unvaccinated employee. She was not told her job was in any jeopardy if she quarantined or made aware that she needed to take any action in order to preserve her employment. The administrative law judge finds the claimant was discharged for no disqualifying reason. Benefits are allowed.

DECISION:

The November 2, 2021 (reference 01) unemployment insurance decision is reversed. Claimant did not quit but was discharged from employment for no disqualifying reason. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

February 17, 2022
Decision Dated and Mailed

lj/lj