

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JANET K REISER
Claimant

BAUMGART HOME CARE INC
Employer

APPEAL 21A-UI-12954-JD-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/21/21
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

On May 26, 2021, claimant Janet K. Reiser filed an appeal from the May 21, 2021 (reference 03) unemployment insurance decision that denied benefits based on a determination that claimant voluntarily quit her employment for personal reasons. The parties were properly notified of the hearing. A telephonic hearing was held at 1:00 p.m. on Tuesday, August 3, 2021. The claimant, Janet K. Reiser, participated. The employer, Baumgart Home Care, Inc., participated through Katie Sherlock.

ISSUE:

Did the claimant voluntarily quit 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:

Claimant was employed part time, most recently as an in-home care aide, from March 3, 2020, until March 23, 2020, when she quit her employment due to the emerging COVID-19 pandemic.

Claimant sent the employer an email on March 23 that stated she wanted to resign. Claimant has underlying health conditions, and both she and her family were concerned that her position as a home health aide would expose her to COVID-19. Claimant also received advice and documentation from her medical provider counseling her to leave her employment due to the risk it posed to her health during the pandemic.

Claimant has subsequently applied for and received Pandemic Unemployment Assistance from March 21, 2021, through June 12, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation was 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.

Iowa Admin. Code r. 871-24.25 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:

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

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). Here, claimant quit her employment to protect herself from the emerging COVID-19 pandemic. While this is certainly a compelling personal reason, it is not a reason fairly attributable to the employer.

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 notified the employer that she would be resigning effective immediately due to COVID-19 and the risks that her position posed to her health, given her underlying health conditions. The administrative law judge finds claimant's separation was without good cause attributable to the employer. Benefits are withheld.

The administrative law judge notes this decision does not affect the Pandemic Unemployment Assistance benefits claimant has received.

DECISION:

The May 21, 2021 (reference 03) unemployment insurance decision is affirmed. Claimant separated from 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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August 27, 2021
Decision Dated and Mailed

lj/scn