

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SARAH C SMITH
Claimant

APPEAL 21A-UI-11365-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

GRAND HAVEN HOMES INC
Employer

OC: 10/04/20
Claimant: Respondent (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit
Iowa Admin. Code r. 871-24.10 – Employer Participation in Fact-Finding Interview
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
PL 116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

“Grand Haven Homes Inc., the employer/appellant, filed an appeal from the April 5, 2021, (reference 03) unemployment insurance decision that allowed benefits. The parties were properly notified of the hearing. A telephone hearing was held on June 26, 2021. The employer participated through Chelsy Ingies. Ms. Smith participated and testified. Official notice was taken of the administrative record.

ISSUE:

Did Ms. Smith voluntarily quit without good cause attributable to the employer?
Was Ms. Smith overpaid benefits?
If so, should she repay the benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Smith began working for the employer on October 19, 2020. She worked as a full-time director of nursing. She quit on December 15, 2020.

In her less than two months of employment with this employer, Ms. Smith was verbally warned for having personal conversations at work, verbally warned for wearing a hooded sweatshirt at work, verbally warned for not working a full eight hours each day and issued a final warning on December 9, 2020 for writing down inaccurate times for when she clocked out. Ms. Smith felt that the employer was bullying her and did not want her to work for the employer. Ms. Smith reached out the employer’s corporate office but received no response.

Another employer, GS Laboratory, reached out to Ms. Smith to offer her a full-time position that would pay her more money than this employer. Ms. Smith decided to leave this employer to

take the new position. Ms. Smith resigned on December 15, 2020, effective immediately and began working for the new employer on December 17, 2020.

For a few weeks in 2021, Ms. Smith worked for Lantern Park Specialty Care as a full-time nurse manager. That employment ended on March 17, 2021. The issue of Ms. Smith's separation from employment with Lantern Park Specialty Care has not been investigated by Iowa Workforce Development.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). 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).

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

(emphasis added).

In this case, Ms. Smith voluntarily quit this employer to accept a new job, better pay job. Ms. Smith's voluntarily quit was not disqualifying because she quit to accept an offer of better

employment. Benefits are allowed, provided she is otherwise eligible. No charges shall accrue to the employer's account pursuant to Iowa Admin. Code r. 871-23.43(5).

DECISION:

The April 5, 2021, (reference 03) unemployment insurance decision is affirmed. Ms. Smith's separation from employment with this employer is not disqualifying because she voluntarily quit to accept better employment. The employer's account shall not be charged.



Daniel Zeno
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

July 08, 2021
Decision Dated and Mailed

dz/ol