

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

REBEKAH TRASTER
Claimant

CHILD'S VIEW DAYCARE LLC
Employer

APPEAL 20A-UI-09659-HP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/17/20
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Claimant Rebekah Traster filed an appeal from a July 27, 2020 (reference 02) unemployment insurance decision that denied benefits for voluntarily quitting her work with Child's View Daycare LLC ("Child's View"). The parties were properly notified of the hearing. A telephone hearing was scheduled for September 22, 2020. Traster appeared and testified. No one appeared on behalf of Child's View. I took administrative notice of the claimant's unemployment insurance benefits records maintained by Iowa Workforce Development.

ISSUE:

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause?

FINDINGS OF FACT:

In August 2019, Traster commenced full-time work as an assistant daycare teacher with Child's View. Her immediate supervisor was Sheryl.

In March 2018, Covid-19 hit Iowa and the children stopped coming to the daycare. On March 18, 2020, Traster went to work and Sheryl told her there were not enough kids for her to stay and work. Traster told Sheryl she had saved up money and that she would be fine not working for a period of time. Traster continued to call Sheryl to see if any work was available.

Traster's neighbor stopped breathing and Traster performed CPR in late April 2020. Traster told Sheryl about the incident when Sheryl asked her to work April 27, 2020. Traster told her she had been told by her physician to quarantine for a period of time. Traster became ill with a fever and stomach upset. Traster went to the doctor and he told her to quarantine longer until she did not have any symptoms consistent with Covid-19. Traster called Sheryl around May 6, 2020 or May 7, 2020, and offered to provide a doctor's note. Sheryl responded she did not need one.

The daycare closed for a period. Traster eventually applied for unemployment. In July 2020, Traster contacted Sheryl and she did not report she had any work for her. Traster reported she was never disciplined and she did not quit.

REASONING AND CONCLUSIONS OF LAW:

Traster avers she was subject to layoff. 871 Iowa Administrative Code 24.1(113) characterizes the different types of employment separations as follows:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

c. Discharge. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.

d. Other separations. Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

Iowa Code section 96.5(1) provides an individual “shall be disqualified for benefits, regardless of the source of the individual’s wage credits: . . . If the individual has left work voluntarily without good cause attributable to the individual’s employer, if so found by the department.” The Iowa Supreme Court has held a “voluntary quit” means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer.” *Wills v. Emp’t Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989). A voluntary quit requires “an intention to terminate the employment relationship accompanied by an overt act carrying out the intent.” *Peck v. Emp’t Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). “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). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant’s departure from employment was voluntary. *Irving v. Emp’t Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016).

871 Iowa Administrative Code 24.25

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 following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

Traster testified she did not quit her job and she had never been disciplined. Traster reported she was subject to layoff when the number of children who attended the daycare dwindled. Traster testified Sheryl, her supervisor, sent her home on March 18, 2020, after one hour of work, and did not have any additional work available for her until April 27, 2020. Traster told Sheryl she could not work that day given she was under quarantine after having given CPR to her neighbor.

Traster developed symptoms that can be indicative of Covid-19 and she went to her doctor. Her doctor told her to quarantine until she was symptom-free, which she conveyed to Sheryl. Sheryl did not require Traster to provide a doctor's note. Traster had not returned to work or been offered work. No one appeared from Child's View to rebut Traster's testimony. I do not find Traster voluntarily quit her employment and she was subject to layoff. Benefits are granted.

DECISION:

The July 27, 2020 (reference 02) unemployment insurance decision denying unemployment insurance benefits is reversed in favor of the claimant/appellant. Benefits are allowed, provided the claimant is otherwise eligible.



Heather L. Palmer
Administrative Law Judge
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September 25, 2020
Decision Dated and Mailed

hlp/mh