

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RISHAWN ECHOLS
Claimant

BLACK HAWK COUNTY
Employer

APPEAL 17A-UI-00494-NM-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/18/16
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.25(2) – Move

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 5, 2017, (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on February 2, 2017. The claimant Rishawn Echols participated and testified. The employer Black Hawk County participated through Human Resource Director Audra Heineman. Also present, but not testifying, on behalf of the employer was Debra Bunger. Employer's Exhibit 1 was received into evidence.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a certified nurse assistant from November 23, 2011, until this employment ended on October 23, 2016, when she voluntarily quit.

On October 4 or 5, 2016 claimant notified her supervisor, Carol Lorrie, she might be resigning. On October 15, 2016, claimant told Lorrie she was leaving and her last day would be October 22, 2016. Claimant was quitting because she planned to move out of state. Claimant explained in October 2015 she lost a child to gun violence and one year later had her house shot at again. Claimant determined that in order to keep her family safe she needed to move and she has family in Ohio. Claimant originally planned to move in November, but her plans were delayed. Claimant still plans on moving, but has not done so yet. Had claimant not resigned, work would have continued to be available to her.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

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 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.

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). 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 the circumstances surrounding claimant's need to move are most certainly based upon good personal reasons and her desire to keep her family safe is commendable, moving is not a good-cause reason for voluntarily quitting attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The January 5, 2017, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she is deemed eligible.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

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