

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KATLYN M CLASS

Claimant

APPEAL 22A-UI-05163-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HOMESTEAD OF KNOXVILLE OPERATION

Employer

OC: 01/23/22

Claimant: Respondent (2)

Iowa Code § 96.5(1) – Voluntary Quit

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

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

STATEMENT OF THE CASE:

The employer filed an appeal from the February 15, 2022, (reference 01) unemployment insurance decision that allowed benefits based upon claimant's discharge. The parties were properly notified about the hearing. A telephone hearing was held on April 6, 2022. Claimant Katlyn M. Class did not participate. Employer Homestead of Knoxville Operations participated through administrator Bailey Stone. The administrative law judge took official notice of the administrative record.

ISSUES:

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

Has the claimant been overpaid unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a direct care worker from July 13, 2021, and was separated from employment on February 1, 2021.

Employer has a policy in place which requires employees to call in if they are not going to be at work. There is also a policy in place which states that if employees are a no-call/no-show for two consecutive workdays, they are considered to have abandoned their jobs and are separated from employment. Claimant was aware of the policy.

According to employer claimant's last day worked was January 19, 2022. She was scheduled to work that weekend but called into notify employer she was ill with COVID-19 symptoms. A couple of days later, claimant notified employer she tested positive for COVID-19. Employer sent claimant a text message to find out when her isolation time was up so she could be put back on the schedule. Claimant did not respond, so employer informed claimant she was

expected to return after a seven-day isolation period unless she notified employer her doctor stated otherwise. Claimant did not respond to the text message. Claimant was placed on the schedule on or around January 28, 2022. Claimant was absent from work without notifying them for her next three scheduled shifts. Claimant never returned to work. Continuing work was available for claimant and her job was not in jeopardy.

The administrative record reflects that claimant has not filed any weekly claims and has received no unemployment insurance benefits since filing her claim effective January 23, 2022. Employer did not participate in the fact-finding interview.

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 §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.

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).

In this case claimant was absent from work beginning January 28, 2021, and missed her scheduled shifts. Claimant knew that she was supposed to report any absences prior to her scheduled shift start time. Claimant failed to report these absences in violation of the employer's policy.

Iowa Admin. Code r. 871-24.25(4) 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 § 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 § 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:

- (4) The claimant was absent for three days without giving notice to employer in violation of company rule.

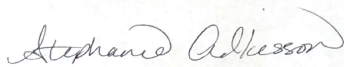
An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Inasmuch as the claimant failed to

report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer.

Because claimant did not receive any unemployment insurance benefits, the issues of overpayment of regular unemployment insurance benefits and relief of charges are moot.

DECISION:

The February 15, 2022, (reference 01) unemployment insurance decision is reversed. The claimant voluntarily left her 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. The issues of overpayment of regular unemployment insurance benefits and relief of charges are moot.



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April 13, 2022
Decision Dated and Mailed

sa/kmj