

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**PATRICK K KADIMA**  
Claimant

**TMONE LLC**  
Employer

**APPEAL 19A-UI-09440-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/01/19**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the November 20, 2019 (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on December 27, 2019, at 11:00 a.m. Claimant participated. Employer participated through Molly Meister, Executive Administrator. Claimant's Exhibit A was admitted. Official notice was taken of the administrative record.

**ISSUE:**

Whether claimant's separation was a voluntary quit without good cause attributable to employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was hired to work full-time on the night shift as a road side assistant. Employer and claimant agreed that claimant would complete one day of orientation during the day shift and the remaining two days of orientation during the night shift due to claimant's lack of child care. While attending the first day of orientation on October 21, 2019, claimant mistakenly believed he would be required to attend the second and third days of orientation during the day. Claimant did not ask for clarification or explain his agreement with employer to complete the second and third days during the night shift. Claimant did not return to work after October 21, 2019 and did not notify employer that he would not be returning. Employer called claimant on October 22, 2019, October 23, 2019 and October 24, 2019 to inquire about the status of his employment. There was continued work available to claimant. Claimant's job was not in jeopardy.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit his employment without good cause attributable to employer. Benefits are denied.

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, 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). 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. 871-24.25(17), (20), and (23) provide:

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:

- (17) The claimant left because of lack of child care.
- (20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.
- (23) The claimant left voluntarily due to family responsibilities or serious family needs.

Claimant's failure to report to work after October 21, 2019 is both evidence of his intention to sever the employment relationship and an overt act of carrying out his intention. Claimant voluntarily quit his employment because he mistakenly believed he would not have child care. Claimant did not take any steps to clarify the misunderstanding or notify the employer of the issue so that it could be addressed and claimant could maintain his employment. Claimant's reason for quitting is not attributable to employer. Claimant has not met his burden of proving he voluntarily quit his employment for good cause attributable to employer. Benefits are denied.

**DECISION:**

The November 20, 2019 (reference 02) unemployment insurance decision is affirmed. Claimant voluntarily quit work without good cause attributable to employer. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Adrienne C. Williamson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

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Decision Dated and Mailed

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