

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ELIZABETH ADAMS
Claimant

HY VEE INC
Employer

APPEAL 22A-UI-02023-JD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/24/21
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

On December 25, 2021, the claimant filed an appeal from the December 15, 2021, (reference 01) unemployment insurance decision that denied benefits based on a representative's determination that the claimant's separation from employment was without good cause attributable to her employer. The parties were properly notified about the hearing. A telephone hearing was held on February 14, 2022. Claimant, Elizabeth Adams participated and testified. Employer participated through Jennifer Rice, hearing representative and Human Resources Manager, Jessica Franzenburg. The administrative law judge took official notice of the administrative record.

ISSUE:

Did the claimant quit the employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on January 17, 2015. Claimant last worked as a full-time associate. Claimant was separated from employment on August 26, 2021, when she failed to return to work after a leave of absence. Claimant went on medical leave in May 2021. Claimant's health was poor for most of the summer and she had difficulty in managing her medication and experienced extreme side effects due to her illness. Claimant kept her employer apprised of her medical situation and she was on FMLA leave and receiving short-term disability. The claimant spoke with Jessica Franzenburg on August 18, 2021, to discuss her return to work. The claimant stated she could return to her regular early morning shift 4:00 a.m. to 10:00 a.m. on August 23, 2021. The claimant agreed to work August 23-25, 2021. The claimant failed to show up for her shift and failed to notify her employer that she would not be able to come into work. The claimant had no further conversation with her employer after the August 18, 2021, phone call. The employer repeatedly tried to contact the claimant to determine what her status was with the company. The employer sent out two certified letters to the claimant's address of record and both letters were returned undeliverable.

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:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- a. Obtain the advice of a licensed and practicing physician;
- b. Obtain certification of release for work from a licensed and practicing physician;
- c. Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- d. Fully recover so that the claimant could perform all of the duties of the job.

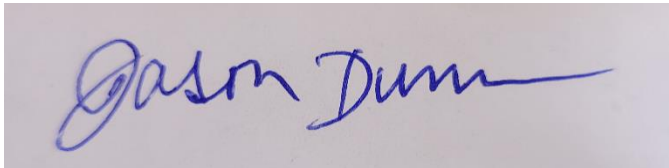
Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual, or the claimant in particular. *Uniweld 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).

The claimant's last contact with her employer was August 18, 2021, when she informed her employer she would return to work on August 23, 2021. The claimant's refusal to engage with her employer about her employment status does not equate to good cause attributable to the employer. The employer reached out to the claimant several times after her failure to return to work and the claimant ignored every attempt that the employer made. Further the employer stated that the claimant remains eligible for re-hire.

While claimant's leaving may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The December 15, 2021, (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 has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.



Jason Dunn
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March 7, 2022
Decision Dated and Mailed

jd/mh