

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**NIDAL BESHER**  
Claimant

**APPEAL 22A-UI-03656-DZ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MAYOR'S YOUTH EMPOWERMENT  
PROGRAM**  
Employer

**OC: 12/05/21**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Nidal Beshar, the claimant/appellant filed an appeal from the January 15, 2022 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on March 10, 2022. Mr. Beshar participated and testified. The employer participated through Kari Wilken, chief operating officer. Claimant's Exhibits A and B were admitted as evidence.

**ISSUE:**

Did Mr. Beshar voluntarily quit without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Beshar began working for the employer on February 23, 2021. He worked as a part-time direct support professional, then a full-time supervisor, then a part-time direct support professional. He worked with clients living with developmental disabilities, including behavioral health issues. Mr. Beshar's employment ended on December 6, 2021.

On Tuesday, November 30, 2021, one of Mr. Beshar's client tried to hit him in the face and yelled at him. This was unprovoked. Mr. Beshar was concerned that the client would hit him in the eye, break his eye glasses and injure his eye and/or his face. Another staff deescalated the situation. Earlier that week, the same client did the same thing to Mr. Beshar. Mr. Beshar had not reported the first incident to the employer. Immediately after the incident, Mr. Beshar texted his supervisor and said the client did not show respect to him for the second time that week. Claimant's Exhibit A. Mr. Beshar texted that he and the supervisor needed to talk about the situation, and that Mr. Beshar did not feel comfortable and safe working at that location. *Id.* Mr. Beshar's supervisor did not attend work that day and did not respond to Mr. Beshar. The employer's policy requires employees to complete an incident report if an incident occurs. Mr. Beshar did not complete an incident report for either incident.

Mr. Beshar was scheduled to work the next day at 4:00 p.m. The supervisor went to the job site at which Mr. Beshar worked to meet with Mr. Beshar and discuss the situation with him. Mr. Beshar was a No-Call/No-Show. At about 4:30 p.m., the supervisor texted Mr. Beshar "Where are you?" *Id.* Mr. Beshar did not respond because he was upset that the supervisor had not responded to him the previous day. Mr. Beshar was scheduled to work on Saturday and Sunday. On Thursday, the supervisor texted Mr. Beshar and asked if he would be working Saturday, and told Mr. Beshar that if he did not show up for work the supervisor would write him up. *Id.* Mr. Beshar did not respond because he was upset that the supervisor had not responded to him on November 30 and because the supervisor was threatening to write him up. Mr. Beshar was a No-Call/No-Show on Saturday and Sunday.

On Monday, December 6, Mr. Beshar's supervisor sent Mr. Beshar a text message telling him his job was over because of his No-Calls/No-Shows. *Id.* The employer's policy provides that employees who are a No-Call/No-Show for three consecutive scheduled shifts are considered to have quit. Mr. Beshar received the policy on, or about, his hire date.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes Mr. Beshar's separation from 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:

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

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 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).

In this case, Mr. Beshar stopped attending work and did not call in after the November 30 incident and his text message to his supervisor. Mr. Beshar's three consecutive No-Calls/No-Shows violated the employer's policy and were without good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

**DECISION:**

The January 15, 2022 (reference 01) unemployment insurance decision is AFFIRMED. Mr. Beshar voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he 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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March 28, 2022  
Decision Dated and Mailed

dz/jh