

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CHARLOTTE A PRICE**  
Claimant

**APPEAL 21A-UI-21823-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AT&T MOBILITY SERVICES LLC**  
Employer

**OC: 08/08/21  
Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

Charlotte A Price, the claimant/appellant filed an appeal from the September 21, 2021 (reference 01) unemployment insurance decision that denied benefits based on an August 9, 2021 voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on November 22, 2021. Ms. Prices participated and testified. The employer participated through Abel Duronville, manager, and Tanis Minters, Talx UCM Services dba UC Express hearing representative.

**ISSUE:**

Did Ms. Prices voluntarily quit without good cause attributable to the employer, or did the employer discharge her for disqualifying, job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Price began working for the employer on Nov 12, 2018. She worked as a full-time customer services and sale representative. Her employment end on August 11, 2021.

In April 2020, Ms. Price began working remotely due to the COVID-19 pandemic. In June 2021, the company from which Ms. Price rented her apartment sent her a letter telling her that her lease would not be renewed and would end on July 31, 2021. Ms. Price talked with her manager about the situation. She asked to be transferred to a different location. The employer's policy provides that employees must live within a one-hour drive of their worksite. Ms. Price was unable to finding other housing in her area and would have to move more than one hour from her worksite. Ms. Price was able to extend her lease for one week through August 7, 2021. Ms. Price spoke with several managers about her situation.

A few days before August 11, Ms. Price was in the office to return the employer's computer since the employer still had not made a decision about whether Ms. Price could transfer to a new worksite. Ms. Price spoke to a manager. Ms. Price became overwhelmed because she

was losing her housing and potentially her job. Ms. Price told the manager that she would leave for the day. Ms. Price left.

The manager told Mr. Duronville, Ms. Price's manager, what happened. Mr. Duronville called Ms. Price and asked her about the situation. Ms. Price explained the situation and told Mr. Duronville that she was overwhelmed. Mr. Duronville told Ms. Price that he would see what he could do. On August 11, Mr. Duronville called Ms. Price and told her that there was nothing more the company could do and that he would have to let her go. Mr. Duronville told Ms. Price that she could re-apply in six months.

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

For the reasons that follow, the administrative law judge concludes Ms. Price did not quit. The employer terminated her employment for no disqualifying reason.

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 Code section 96.5(2)a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:
  - a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

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.

Iowa Admin. Code r. 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

- a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such

worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Department of Job Service*, 275 N.W.2d 445, 448 (Iowa 1979).

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). 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 employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). Misconduct must be "substantial" to warrant a denial of job insurance benefits. *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984).

The decision in this case rests, at least in part, on the credibility of the witnesses. It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The findings of fact show how the administrative law has resolved the disputed factual issues in this case. The administrative law judge assessed the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and used his own common sense and experience.

In an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy, but if it fails to meet its burden

of proof to establish job related misconduct as the reason for the separation, it incurs potential liability for unemployment insurance benefits related to that separation. A determination as to whether an employee's act is misconduct does not rest solely on the interpretation or application of the employer's policy or rule. A violation is not necessarily disqualifying misconduct even if the employer was fully within its rights to impose discipline up to or including discharge for the incident under its policy.

In this case, Ms. Price tried for about two months to save her job, but she was unable to do so. Ms. Price showed no intention of quitting and she took no action to quit. To the very end, Ms. Price continued to try to keep her job. On August 11, the employer ended Ms. Price's employment because the employer made the decision to not transfer her. Since the employer has not established misconduct on the part of Ms. Price, benefits are allowed.

**DECISION:**

The September 21, 2021, (reference 01) unemployment insurance decision is reversed. Ms. Price was discharged from employment for no disqualifying reason. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.



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Daniel Zeno  
Administrative Law Judge  
Iowa Workforce Development  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax 515-478-3528

January 3, 2022  
Decision Dated and Mailed

dz/mh