

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LAURIE J FLETCHER
Claimant

WESLEYLIFE
Employer

APPEAL 16A-UI-07730-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/05/16
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.25(37) – Employer Accepted Resignation

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 21, 2016, (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant resigned and the employer accepted her resignation. The parties were properly notified of the hearing. A telephone hearing was held on August 2, 2016. The claimant, Laurie J. Fletcher, participated. The employer, Wesleylife, participated through Jim Clindaniel, executive director; and Lesley Buhler of Equifax/Talx represented the employer. Claimant's Exhibits 1 through 10 and Employer's Exhibits A and B were received and admitted into the record without objection.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time, most recently as the director of assisted living, from July 20, 2010, until this employment ended on June 4, 2016.

On May 3, 2016, claimant delivered a written resignation to Clindaniel, following a meeting with him, Angie Smith, and Robyn Witte. During this meeting, claimant and the other attendees discussed one of the residents who was preparing to move from the health center back to assisted living. Approximately one week prior, claimant had stopped the resident's move to assisted living, and she believes this caused discord among Clindaniel, Smith, and Witte. Claimant had concerns about the resident's ability to return to assisted living, based in part on conversations she had with the resident. Clindaniel testified that the resident had met all of the physical therapy goals established for her in the health center, and she was prepared to return to assisted living.

During the meeting, claimant insisted she was not going to allow the resident to move back to assisted living. Smith then told her, "If you do not take her back, in the future if we have one of your residents and we feel they should go back to assisted living and you do not take them

back, we will give them an eviction/involuntary discharge.” Claimant believes this statement was a threat. She ultimately decided to allow the resident to return to assisted living. She then submitted her resignation.

Claimant feels Clindaniel did not properly stand up for her when she was threatened, and she was upset that Clindaniel reprimanded her for halting the resident’s move to assisted living. Clindaniel testified that he is the ultimate decision-maker and it would be his license that would be in jeopardy if anything happened with this resident or any other resident. Clindaniel denies claimant’s nursing license was in jeopardy because of the issue with the resident moving from the health center to assisted living.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant’s separation from employment was without good cause attributable to the employer. Benefits are withheld.

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.

Iowa Admin. Code r. 871-24.25(37) 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:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation.

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). Here, claimant delivered her resignation after a work conflict over a resident moving from the health center to assisted living. Claimant was not told she had to allow the resident to move to assisted living if she wanted to keep her job. Rather, Smith expressed to claimant how she would need to proceed if claimant continued refusing to allow residents to return to assisted living. A reasonable employee in claimant’s situation would not believe her job was threatened by Smith’s statement.

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). Claimant delivered her written resignation to Clindaniel and ended her employment on the date she anticipated. While claimant may have felt compelled to resign after the May 3 meeting, given her concerns about resident care, claimant's decision was not based on a good-cause reason attributable to her former employer. Benefits are withheld.

DECISION:

The June 21, 2016, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the 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.

Elizabeth Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/