

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TYMIY S MURRAY
Claimant

MAINSTREAM LIVING INC
Employer

APPEAL 17A-UI-12584-NM-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 11/12/17
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 30, 2017, (reference 01) unemployment insurance decision that denied benefits based on her voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on January 8, 2018. The claimant participated and testified. The employer participated through Human Resource Manager Marcanne Lynch. Elizabeth DeHaan, Mary Fuller, Angela Schoebel, and Nichole Boyd were also present on behalf of the employer but did not testify. Employer's Exhibits 1 through 16 were received into evidence.

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 as a direct support professional from June 5, 2017, until this employment ended on October 24, 2017, when she voluntarily quit.

Claimant's position requires a valid driver's license. At the time she was hired, claimant only possessed a learner's permit, but was working towards getting a permanent license. On October 24, 2017, a meeting was held between claimant, Lynch, Boyd, and Schoebel to discuss the status of claimant's permanent license. Claimant had provided the employer with conflicting stories about the status of her license, so Lynch had requested she get a letter from the Department of Transportation confirming that she either had her license or had taken her driving test to get her license. Claimant initially agreed, but following the meeting sent a text message to Lynch stating she was resigning effective immediately. Claimant testified she resigned because she believed had she not resigned, she would have been discharged. Lynch testified there were no immediate plans to discharge claimant at the time of her separation and the employer was still trying to work with her and the licensing issue.

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:

(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. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

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).

Here, claimant resigned after being instructed by the employer to obtain documentation from the Department of Transportation confirming what she had told them about the status of her driver's license, which was required for her position. Claimant testified she believed had she not resigned, she was going to be discharged. However, the employer provided credible testimony that there were no immediate plans to discharge claimant and they were still trying to work with her on her licensing issue. 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 November 30, 2017, (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.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/rvs