

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARYLAN A TAYLOR
Claimant

STEWARD DELL INC
Employer

APPEAL 22A-UI-05061-DH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/02/22
Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

Marylan Taylor, claimant/appellant, filed an appeal from the February 18, 2022, (reference 02) unemployment insurance decision that denied benefits based upon her voluntary quit on 09/15/21 for personal reasons. The parties were properly notified about the hearing. A telephone hearing was held on April 4, 2022. Claimant personally participated and testified. Employer, Steward Dell, Inc., participated through Steven Steward, owner. Judicial Notice was taken of the administrative record.

ISSUE:

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause?

FINDINGS OF FACT:

Having heard the testimony and reviewed the evidence in the record, the undersigned finds:

Claimant was employed full-time as a driver from June 2020, until the last day she worked on September 14, 2021. Claimant was separated from employment on September 15, 2021. Claimant did NOT voluntarily quit work.

Claimant originally drove a milk truck for employer. Employer's milk trucks were auctioned off to pay down debt employer owed. Claimant then drove a dump truck for employer. On September 15, 2021, the dumb trucks were auctioned off to pay down debt employer owed. Employer had hoped to buy the dump trucks in the auction but was unsuccessful. Employer told claimant that he did not have any work for her to perform. Claimant took this to mean she was laid off from work. Claimant did not state she was quitting. Claimant did state that she was going to get her class A license and also look for work, which employer took for her quitting. Claimant had no intention of quitting and did not make any statement about quitting.

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:

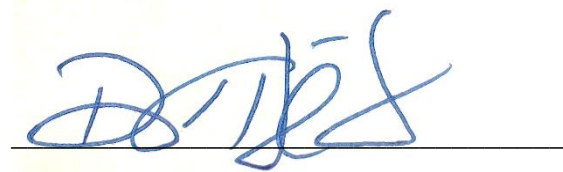
Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified 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:

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).

Claimant drove a dump truck for employer. Employer's dump trucks were sold on September 15, 2021. Employer told claimant there was no longer any work for her to perform. Claimant took this to mean she was being laid off work. Claimant had no intention of resigning, as she liked working for employer. Claimant did not make any statement to indicate she was quitting. Claimant has met her burden of proof in establishing this was not a voluntary quit. The employer telling claimant there is no longer any work available for them sounds more like a layoff or discharge from work and after being told this, claimant responding she needs to finish getting her class A license and see what works available is not quitting. See 871 IAC 24.1(113) definition of separations. Benefits are allowed.

DECISION:

The February 18, 2022, (reference 02) unemployment insurance decision is **REVERSED**. The claimant did not voluntarily leave her employment. Benefits are granted, provided she is otherwise eligible.



Darrin T. Hamilton
Administrative Law Judge

April 14, 2022
Decision Dated and Mailed

dh/mh