

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CRISTAL A SANTIAGO CAMACHO
Claimant

SHORT STAFFED INC
Employer

APPEAL 20A-UI-13075-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/05/20
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.4(3) – Able to and Available for Work

STATEMENT OF THE CASE:

Cristal A Santiago Camacho, the claimant/appellant, filed an appeal from the October 19, 2020, (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on December 28, 2020. The claimant participated and testified. The employer participated through Jessica Hinojosa, vice president of operations. Claimant's Exhibits A through C and Employer's Exhibit 1 were admitted into evidence. Official notice was taken of the administrative record.

ISSUE:

Was the separation a layoff, discharge for misconduct or voluntary 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: The claimant began working for the employer on August 26, 2019. She worked as a full-time assistant manager. Her last day at work was July 6, 2020.

The claimant was on sick leave June 29 through July 3. On July 6, 2020, the claimant notified the employer that she was leaving early because her son was sick. The next day, the claimant informed the employer that, on advice of her child's doctor, she would self-quarantine for 14 days due to her child had been exposed to COVID-19.

On July 9, the claimant emailed the employer to ask about her pay for prior week. Employer's Exhibit 1. The employer replied that since the claimant was on sick leave the prior week she would not be paid for that week. Employer's Exhibit 1. The claimant never contacted the employer again and did not return to work at the end of her self-quarantine on July 22 because she believed that she should have been paid for the week of June 29 through July 3.

The employer's policy provides that if an employee has three consecutive No-Call/No-Shows the employee is considered to have voluntarily quit. The claimant was aware of the employer's policy.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the 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(20) 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:

...

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

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).

In this case, the claimant did not return to work after her 14-day self-quarantine because the employer told her that she wouldn't be paid for the week of June 29 through July 3. According to the employer's policy, the claimant quit after three consecutive No-Call/No Shows. More importantly, Iowa law provides that a claimant's voluntary quit for personal reasons that exceeds ten working days is presumed to be without good cause attributable to the employer. The claimant wanting to be paid by the employer is entirely reasonable. However, the claimant's not returning to work after self-quarantine was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The October 19, 2020, (reference 02) 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.



Daniel Zeno
Administrative Law Judge

January 11, 2021
Decision Dated and Mailed

dz/scn