

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARIA MADRIGAL
Claimant

ROCHELLE FLOYD
Employer

APPEAL 19A-UI-08587-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/06/19
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Claimant filed an appeal from the October 21, 2019 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on November 25, 2019, at 9:00 a.m. Claimant participated. Employer participated through Gladys Evans, Rochelle Floyd's legal guardian. Employer's Exhibits 1 – 3 were admitted.

ISSUE:

Whether claimant's separation was a voluntary quit without 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 as a part-time caregiver from June 6, 2014 until her employment with Rochelle Floyd ended on October 5, 2019, when she resigned effective immediately. Gladys Evans, employer's legal guardian, was claimant's direct supervisor.

Claimant provided many reasons for quitting her employment. Her main reason was the smell of marijuana at employer's residence, which she smelled for the first time two years ago. Most recently claimant smelled marijuana from April 2, 2019 through October 3, 2019. Claimant continued working for employer because she was trying to obtain proof of marijuana use to support her decision to quit her job. Claimant did not observe marijuana at the residence or allege residents were under the influence of marijuana.

There was continuing work available to claimant if she had not quit. Claimant's job was not in jeopardy.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit without good cause attributable to employer. Benefits are denied.

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). 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). Where a claim gives numerous reasons for leaving employment the agency is required to consider all stated reasons which might combine to give the claimant good cause to quit in determining any of those reasons constitute good cause attributable to the employer. *Taylor v. Iowa Dep't of Job Serv.*, 362 N.W.2d 534 (Iowa 1985).

Iowa Admin. Code r. 871-24.25(21), (22) provide:

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:

- (21) The claimant left because of dissatisfaction with the work environment.
- (22) The claimant left because of a personality conflict with the supervisor.

Iowa Admin Code r. 871-24.26(2), (3), (4) provide:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

- (2) The claimant left due to unsafe working conditions.
- (3) The claimant left due to unlawful working conditions.
- (4) The claimant left due to intolerable or detrimental working conditions.

It is the duty of the administrative law judge, as the trier of fact, 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 evidence you believe; 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 I have resolved the disputed factual issues in this case. I assessed the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using my own common sense and experience. I find the employer's testimony to be more credible than the claimant's testimony.

Claimant's resignation is both evidence of her intention to sever the employment relationship and an overt act of carrying out her intention. Claimant voluntarily quit her employment. Claimant provided multiple reasons for quitting her job. The administrative law judge has considered all of them and finds that none of them constitute good cause attributable to the employer. Claimant has not met her burden of proving she voluntarily quit her employment for good cause attributable to employer. Benefits are denied.

DECISION:

The October 21, 2019 (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit without good cause attributable to employer. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Adrienne C. Williamson
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Decision Dated and Mailed

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