

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TRACIE L SCHULZ
Claimant

JANITORS CLOSET LTD
Employer

APPEAL 22A-UI-03477-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/26/21
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:

Tracie L Schulz, the claimant/appellant filed an appeal from the January 17, 2022 (reference 01) unemployment insurance decision that denied benefits because of a December 27, 2021 voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on March 10, 2022. Ms. Schulz participated and testified. The employer participated through Jennifer Jensen, office manager. Employer's Exhibit 1 was admitted as evidence. The administrative law judge took official notice of the administrative record.

ISSUE:

Did Ms. Schulz voluntarily quit without good cause attributable to the employer?
Is Ms. Schulz able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Schulz began working for the employer on March 27, 2014. She worked as a part-time store manager at the employer's Emmetsburg location. Her employment ended on December 27, 2021.

On October 25, 2021, Ms. Jensen went to the Emmetsburg store and told Ms. Schulz in-person that the employer would be closing the Emmetsburg store on December 31, 2021. Ms. Jensen told Ms. Schulz that the employer wanted her to stay and offered her a position at the employer's Spencer location, which is 27 miles away. Ms. Schulz told Ms. Jensen that she did not want to drive 27 miles to and from work each day and that she drives an older car. Ms. Jensen told Ms. Schulz that she understood Ms. Schulz's concerns but the employer wanted Ms. Schulz to stay with the company. The employer sent customer a letter informing them that the Emmetsburg store was closing due to the COVID-19 pandemic.

Some days later, the employer sent Ms. Schulz a job offer to work as a Customer Service Representative/Sales Assistant in the employer's Spencer location. The employer offered Ms.

Shulz a \$3.65 per hour pay increase but no more commission pay, and full-time hours instead of part-time hours to make up for Ms. Schulz's travel costs. Ms. Schulz agreed to the offer and signed it on November 12. Employer's Exhibit 1. The employer also signed the offer. *Id.* Ms. Schulz accepted the job offer because she did not want to be unemployed and she did not know if she would be able to find a new job.

Ms. Schulz's last day working at the Emmetsburg location was Thursday, December 22. Ms. Schulz and the employer agreed that Ms. Schulz would start at the Spencer location on Monday, December 27 because another employee was going on vacation. The morning of December 27, Ms. Schulz began driving to the Spencer location. Ms. Schulz had a panic attack. Ms. Schulz turned around and went home. At about 8:40 a.m., Ms. Schulz texted Ms. Jensen that she cannot do the traveling because she does not trust her car. Employer's Exhibit 1. Ms. Jensen asked Ms. Schulz if she was not taking the position at the Spencer location and Ms. Schulz told Ms. Jensen that she could not do the drive. *Id.* Ms. Schulz testified at the hearing that, in addition to the driving and her car, Ms. Schulz was concerned about being so far away from her school-age child during the school day.

Iowa Workforce Development addressed Ms. Schulz's eligibility for benefits based on the employer closing in its January 10, 2022, (reference 02) UI decision. That decision concluded Ms. Schulz is eligible for benefits based on the employer closing.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Schulz's separation from 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:

(30) The claimant left due to the commuting distance to the job; however, the claimant was aware of the distance when hired.

The 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, Ms. Schulz accepted the employer's job offer to work at the Spencer location over six weeks before she was to begin at that location. Ms. Schulz was aware of the distance from her home to Emmetsburg when she accepted the job offer. On December 27, Ms. Schultz did what she needed to do for herself and her child. However, Ms. Schulz's leaving employment with this employer was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The January 17, 2022, (reference 01) unemployment insurance decision is AFFIRMED. Ms. Schulz 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
Iowa Workforce Development
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

March 25, 2022
Decision Dated and Mailed

dz/mh