

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DARSHALL S JONES
Claimant

SUNDANCE, INC.
Employer

**APPEAL 21A-UI-22910-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/18/21
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Claimant filed an appeal from the October 13, 2021 (reference 01) unemployment insurance decision that denied benefits finding claimant voluntarily quit her employment with Sundance on February 15, 2021 due to dissatisfaction with her work conditions. The parties were properly notified of the hearing. A telephone hearing was held on December 7, 2021. Claimant participated. Employer participated through Laurie Robinson, City Leader. No exhibits 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 Shift Leader from June 9, 2020 until her employment with Sundance (d/b/a a fast food restaurant) ended on February 15, 2021. Employer's Covid-19 protocol provides that if an employee tests positive for Covid-19 then employer will notify any employees who had contact with the infected employee of possible exposure.

On or about February 15, 2021, claimant learned that a coworker was absent from work because she tested positive for Covid-19. Claimant had contact with the coworker immediately preceding her absence from work due to Covid-19. Employer did not inform claimant of the possible exposure. Employer did not require any exposed employees to quarantine. Employer did not close the restaurant for disinfection.

Claimant quit her employment on February 15, 2021 because employer failed to notify her of potential exposure in violation of its Covid-19 protocol.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant quit for good cause attributable to employer. Benefits are allowed provided claimant is otherwise eligible.

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). The standard of what a reasonable person would have believed under the circumstances is applied in determining whether a claimant left work voluntarily with good cause attributable to the employer. *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993).

Iowa Admin. Code r. 871-24.26(2), (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.
- (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 claimant's testimony credible that a coworker tested positive for Covid-19, claimant had contact with the infected person and employer did not notify claimant of possible exposure. Claimant provided more detailed information about the incident in question than employer.

Claimant voluntarily quit her employment because employer did not notify her of possible contact with a coworker who tested positive for Covid-19 in violation of employer's Covid-19

protocol. Claimant quit her employment due to unsafe and detrimental working conditions. This constitutes good cause attributable to employer. Benefits are allowed provided claimant is otherwise eligible.

DECISION:

The October 13, 2021 (reference 01) unemployment insurance decision is reversed. Claimant voluntarily quit for good cause attributable to employer. Benefits are allowed provided claimant is otherwise eligible.



Adrienne C. Williamson
Administrative Law Judge
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December 20, 2021
Decision Dated and Mailed

acw/ACW