

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**LACEY M KERN**  
Claimant

**BICKFORD SENIOR LIVING GROUP LLC**  
Employer

**APPEAL 18A-UI-09220-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/12/18**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Admin Code r. 871-24.25 – Voluntary Quit Without Good Cause

**STATEMENT OF THE CASE:**

Lacey Kern, Claimant, filed an appeal from the August 31, 2018, (reference 01) unemployment insurance decision that denied benefits because she voluntarily quit work with Bickford Senior Living Group, LLC due to her pregnancy. The parties were properly notified of the hearing. A telephone hearing was held on September 24, 2018 at 9:00 a.m. Claimant participated. Employer participated through Shane Hardiman, Human Resources Generalist. Claimant's Exhibit A was admitted.

**ISSUE:**

Whether Claimant's separation was a 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:

Claimant was employed full-time as a Registered Nurse Coordinator from April 25, 2017 until her employment with Bickford Senior Living Group, LLC ended on August 2, 2018. (Claimant Testimony) Claimant's direct supervisor was Jill Colling, Director. (Claimant Testimony) Claimant's schedule was Monday through Friday from 8:30 a.m. until 4:30 p.m.; claimant was also on-call. (Claimant Testimony)

In late May 2018, claimant began to tell the director that she needed to reduce work-related stress as it was negatively affecting her pregnancy. (Claimant Testimony) Claimant continued to warn her director through June and July 2018. (Claimant Testimony) The director responded that things would settle down and be less stressful soon. (Claimant Testimony) On July 25, 2018, claimant's physician issued the following work restrictions: claimant was to work no more than 40 hours per week and no more than five days per week and claimant was not to be on-call. (Claimant Testimony) Claimant informed employer of the restrictions on July 25, 2018 and provided employer with a copy of the physician's note on July 26, 2018. (Claimant Testimony)

Claimant submitted an accommodation form on July 30, 2018. (Claimant Testimony) On August 1, 2018, employer contacted claimant with a proposed schedule to accommodate claimant's restrictions. (Hardiman Testimony) The proposed schedule rotated. (Hardiman Testimony) On week one, claimant would work Sunday, Monday, Wednesday, Thursday and Friday; on week two, claimant would work Monday, Tuesday, Wednesday, Friday and Saturday. (Hardiman Testimony) Claimant would either work from 12:00 p.m. to 8:00 p.m. or from 11:00 a.m. to 7:00 p.m. (Hardiman Testimony) Claimant would not be on-call. (Hardiman Testimony) There was no effective date for the schedule change; employer's policy is to allow two-week's notice for any schedule change. (Hardiman Testimony)

On August 1, 2018, claimant discussed the proposed schedule with the director; Claimant was concerned because she did not have child care on the weekends. (Claimant Testimony) Claimant told the director that if the parties could not come to an agreement, then Claimant would be forced to resign. (Claimant Testimony) Claimant and the director agreed to meet on August 2, 2018 to discuss the matter further. (Claimant Testimony) Claimant offered to leave her letter of resignation for the director "just in case" the parties could not reach an agreement. (Claimant Testimony) On August 1, 2018, claimant left a letter of resignation for the director by slipping it under the director's office door. (Claimant Testimony) The letter stated that claimant resigned effective the date that the change in schedule was to become effective due to the unavailability of child care. (Hardiman Testimony)

Claimant met with the director on August 2, 2018 at which time the director informed claimant that the employer had accepted her resignation with immediate effect. (Claimant Testimony) Claimant's job was not in jeopardy. (Hardiman Testimony) Claimant had no other reason for tendering her resignation than the schedule change and lack of child care. (Claimant Testimony)

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the 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). The claimant has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer. Iowa Code § 96.6(2).

Iowa Admin. Code r. 871-24.25(17), (35) 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:

- (17) The claimant left because of lack of child care. . . .
- (35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:
  - a. obtain the advice of a licensed and practicing physician;
  - b. Obtain certification of release of work from a licenses and practicing physician;
  - c. Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
  - d. fully recover so that the claimant could perform all of the duties of the job.

Claimant voluntarily quit her employment with Bickford Senior Living Group, LLC; claimant's resignation shows her intention to end her employment and serves as an overt act of carrying out her intention. Whether claimant's resignation was based upon her pregnancy and work restrictions or upon her lack of child care, the result is the same; claimant voluntarily quit work without good cause attributable to the employer. Claimant's pregnancy is non-work-related. As a result, the employer is not required make accommodations. However, the employer did just that by proposing a schedule that met all of claimant's prescribed restrictions. Without knowing an effective date, claimant rejected the proposed schedule change presumably because she would not be able to secure child care on the weekends. A lack of child care is not good cause attributable to the employer. As a result, claimant is disqualified for benefits.

**DECISION:**

The August 31, 2018, (reference 01) unemployment insurance decision is affirmed. Benefits are denied until such time as the claimant works in and has been paid wages for insured work equal to ten times claimant's weekly benefit amount.

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Adrienne C. Williamson  
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Decision Dated and Mailed

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