

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JENNIFER D BRADLEY
Claimant

**EAGLE WINDOW & DOOR
MANUFACTURING**
Employer

APPEAL 21A-UI-12050-ED-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/28/21
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the April 29, 2021, (reference 01) unemployment insurance decision that denied benefits based upon her separation from employment. The parties were properly notified of the hearing. A telephone hearing was held on July 16, 2021. The claimant, Jennifer D Bradley, participated personally. The employer, Eagle Window & Door Manufacturing, participated through Valerie Parr. The claimant offered Exhibit A and B, which were received into the evidentiary record.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant, Jennifer D Bradley, worked for Eagle Window & Door Manufacturing beginning July 15, 2018. Claimant was an assembler working full-time. Claimant's last day worked was March 24, 2020. The employer considered her date of separation to be August 11, 2020.

On March 24, 2020, claimant was home ill. Claimant remained ill and continued to call in to the automated line to report her illness. On July 11, 2020 claimant was sent a letter to contact the employer regarding her employment status. On July 20, 2021, claimant was sent a certified letter which was signed for at delivery, stating she had 7 days to contact her employer to provide a status update or she would be considered terminated. Claimant was directed not to call the automated line but to contact human resources directly. Claimant did not contact the employer within 7 days. The employer last spoke with claimant on July 16, 2021 when Valerie Parr left a voicemail for the claimant to contact her. On August 14, 2021 the claimant was sent a follow up letter indicating she did not follow up within 7 days and was no longer considered an employee.

Claimant testified that she did contact the human resources department in the time frame allowed. Claimant testified that she did not receive the certified letter sent to her that was signed for at delivery.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code §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 Code § 96.5(2)a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

First it must be determined whether claimant quit or was discharged from employment. 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). Where a claimant walked off the job without permission before the end of his shift saying he wanted a meeting with management the next day, the Iowa Court of Appeals ruled this was not a voluntary quit because the claimant's expressed desire to meet with management was evidence that he wished to maintain the employment relationship. Such cases must be analyzed as a discharge from employment. *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

A claimant who confronts his employer and demands that he be discharged and is subsequently discharged actually quits his employment. Job insurance benefits "are not determinable by the course of semantic gymnastics." *Frances v. IDJS*, (Unpublished Iowa App 1986). Where an individual mistakenly believes that he is discharged and discontinues coming to work (but was never told he was discharged), the separation is a voluntary quit without good cause attributable to the employer. *LaGrange v. Iowa Department of Job Service*, (Unpublished Iowa Appeals 1984).

The decision in this case rests, at least in part, upon the credibility of the parties. It is the duty of the administrative law judge as the trier of fact in this case, 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 believable evidence; 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.*

I have carefully weighed the credibility of the witnesses and the reliability of the evidence considering the applicable factors listed above. I find that the Employer's testimony is credible. In particular, I find credible that the employer sent a certified letter to the claimant which was signed for at delivery instructing the claimant to contact the employer within 7 days. Claimant's testimony that she did not receive the letter was not credible. I also find credible that the claimant did not contact the employer within the 7 days prescribed in the July 20, 2020 letter.

In this case claimant had an intention to quit and carried out that intention by failing to respond to the certified letter sent to her by her employer on July 20, 2020. Essentially, she declined or refused to come to work at any time after March 24, 2020. As such, claimant abandoned her job and voluntarily quit.

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).

In this case, claimant was ill. Claimant was urged by human resources to contact the employer's third party designated to protect her leave. Claimant did not. Claimant testified that she was not able to work during the time period of March 24, 2020 until August 11, 2020 due to

her illness. Claimant's ability and availability for work during this period of time are not disputed issues for this hearing.

For personal reasons, claimant refused to come back to work. Iowa Admin. Code r. 871-24.25(27) provides:

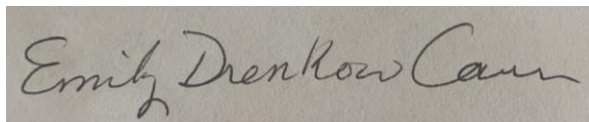
Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 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 § 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:

(27) The claimant left rather than perform the assigned work as instructed.

Claimant's leaving the employment was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The April 29, 2021, (reference 01) unemployment insurance decision is affirmed. Claimant effectively abandoned her job and voluntarily quit employment without good cause attributable to the employer. Benefits are withheld.

A handwritten signature in dark ink on a light-colored background. The signature reads "Emily Drenkow Carr" in a cursive, flowing script.

Emily Drenkow Carr
Administrative Law Judge

July 29, 2021
Decision Dated and Mailed

ed/lj