

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KIMBERLEY GERDES

Claimant

APPEAL 20A-UI-14663-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MERCY HEALTH SERVICES-IOWA CORP

Employer

OC: 04/05/20

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

Iowa Admin. Code r. 871-24.26(4) – Intolerable working conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 27, 2020, (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on January 13, 2021. Claimant participated and testified. Employer participated through Senior Colleague Relations Partner Heidi Willrett and was represented by Frank Shoemaker. Exhibit 1 was admitted into the record. The administrative law judge took official notice of the administrative records.

ISSUE:

Was the separation a layoff, discharge for misconduct or 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 Certified Medical Assistant from June 18, 2012 until she was separated from employment on July 31, 2020, when she quit. The claimant's immediate supervisor was Manager Teresa Stilts-Froiland.

Prior to the Covid19 pandemic, the claimant was scheduled from 8:00 a.m. to 5:00 p.m. throughout the week for an average of 36 to 40 hours per week.

From the week ending April 5, 2020 to the week ending May 23, 2020, the employer reduced the claimant's hours to about 25 hours per week due to lower patient demand.

In June 2020, the claimant's hours had returned to her average hours of 36 to 40 hours per week.

On July 17, 2020, the claimant sent an email to Ms. Stilts-Froiland stating she was resigning effective July 31, 2020. The claimant said she would be moving out of the state. The claimant offered to stay an additional week, if needed. (Exhibit 1)

The claimant was separating from her husband and had decided on leaving Iowa. The claimant had some job prospects in Minnesota and Wisconsin, but did not have any firm offers yet. She also had family in Wisconsin.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the 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:

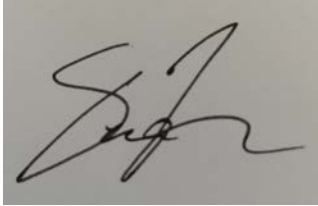
- (2) The claimant moved to a different locality.
- (3) The claimant left to seek other employment but did not secure employment.

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).

The claimant left Iowa because she has family in Wisconsin. The claimant was going through a separation from her husband and needed those familiar faces in her life even more so. She also thought she could secure employment in Wisconsin, but has not been able to do so yet. While claimant's leaving may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The October 27, 2020, (reference 01) unemployment insurance decision is affirmed. The claimant 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.



Sean M. Nelson
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February 10, 2021
Decision Dated and Mailed

smn/scn