

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**TANNER J WHIPPLE
814 NE 51ST CT
ANKENY IA 50021 6795**

**YOUTH EMERGENCY SERVICES &
SHELTER
ATTN: HR & ACCOUNTING
918 SE 11TH ST
DES MOINES IA 50309**

APPEAL 21A-UI-15068-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

APPEAL RIGHTS:

This Decision Shall Become Final, unless within fifteen (15) days from the mailing date below the administrative law judge's signature on the last page of the decision, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
or
Fax (515)281-7191**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

The name, address and social security number of the claimant.

A reference to the decision from which the appeal is taken.

That an appeal from such decision is being made and such appeal is signed.

The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

ONLINE RESOURCES:

UI law and administrative rules: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-law-and-administrative-rules>

Claimant UI Handbook: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-claimant-handbook>

Employer UI Handbook: <https://www.iowaworkforcedevelopment.gov/employer-handbook>

Report UI fraud: <https://www.iowaworkforcedevelopment.gov/report-fraud>

Employer account access and information: <https://www.myiowaui.org/UITPTaxWeb/>

National Career Readiness Certificate and Skilled Iowa Initiative: <http://skillediowa.org/>

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TANNER J WHIPPLE
Claimant

APPEAL 21A-UI-15068-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**YOUTH EMERGENCY SERVICES &
SHELTER**
Employer

**OC: 03/14/21
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

Tanner J Whipple, the claimant/appellant filed an appeal from the June 22, 2021 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on August 25. Mr. Whipple participated and testified. The employer participated through Regina Hughes, human resources coordinator. Claimant's Exhibit A was admitted into evidence.

ISSUE:

Did Mr. Whipple 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: Mr. Whipple began working for the employer on November 13, 2013. He worked as a full-time behavioral health intervention services (BHIS) provider, until February 26, 2017 when he began working part-time.

On January 13, 2021, Mr. Whipple's supervisor asked him, and four other employees, to provide an update on their workload to help her figure out who could and is willing to take on more cases. On January 18, Mr. Whipple replied to his supervisor that he planned to clean up files, review recently closed files, and respond to emails "until the end of the month and then turn in my computer, badge, and keys as I transition to an outpatient mental health therapist at a private practice..." Claimant's Exhibit A, pg. 14. Mr. Whipple noted that he was "wind[ing] down 5+ years doing BHIS at [the employer]," and closed by telling his supervisor to please let him know if the employer needed anything more from him "in order to have a smooth transition out." *Id.* Mr. Whipple did not have a new job on January 18, but he planned to begin working at a new job after taking a licensing exam on February 10. Mr. Whipple and the employer did not communicate after his January 18 email until February 11.

Mr. Whipple did not pass the licensing exam on February 10 so he was not able to work at a new job. On February 11, Mr. Whipple called the employer's then-chief financial officer (CFO). He let her know that he did not pass the licensing exam and asked for work. Mr. Whipple testified that the then-CFO told him that the employer had work available for him and that she would reach out to the person who used to be Mr. Whipple's supervisor who would reach out to Mr. Whipple if there was work available for him.

Mr. Whipple and the employer did not communicate again until mid-June 2021 when Mr. Whipple learned that he had been denied benefits. Mr. Whipple called the employer's then-CFO and asked why he was denied benefits. The then-CFO said she would get back to him. Mr. Whipple sent an email to the then-CFO, his former supervisor and another person at the employer and stated that he had told the then-CFO on February 11 that his "plans had changed." The then-CFO responded to Mr. Whipple and told him that he must have misunderstood her in their February 11 conversation because she did not promise him work, and that the employer had moved all of his old clients other employees because he told the employer that he was leaving.

Mr. Whipple testified that he still considers himself an employee of the employer since he never formally resigned and the employer never asked him for their equipment back. Ms. Hughes testified that Mr. Whipple's employment ended on February 1, 2021, based on his January 18 resignation email.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Mr. Whipple'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:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive

academic term or year and the offer of work was within the purview of the individual's training and experience.

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 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, Mr. Whipple resigned as of January 31, 2021. While Mr. Whipple did not include the specific words "I resign" in his January 18 email to his supervisor, the substance of his message is that he was wrapping things up to leave employment with the employer as of January 31 so he could begin working at a new job. Unfortunately, things did not work out as planned with the licensing exam and the new job. However, that fact does not negate the fact of Mr. Whipple's resignation from employment as of January 31. While Mr. Whipple's leaving may have been based upon good personal reasons and with the plan to start a new job, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The June 22, 2021, (reference 01) unemployment insurance decision is affirmed. Mr. Whipple voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he 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

August 31, 2021
Decision Dated and Mailed

dz/mh