

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TERESA D RICHARDSON
Claimant

APPEAL 21A-EUCU-00030-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PREMIERE BUSINESS SOLUTIONS LLC
Employer

OC: 03/29/20
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 7, 2021, (reference 02) 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 March 23, 2021. Claimant Teresa D. Richardson participated and testified. Employer Premiere Business Solutions, LLC participated through owner Brent Hood. The administrative law judge took official notice of the administrative record.

ISSUE:

Did claimant voluntarily quit the employment without good cause attributable to employer?
Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a sales representative from August 31, 2020, until October 14, 2020, when she quit.

Employer has a policy in place wherein if an employee fails to report an absence for three consecutive working days they are considered to have voluntarily quit their employment. The policy is contained in the employee handbook.

In September 2020, an employee was exposed to COVID-19, and claimant believed the employee had tested positive for COVID. Claimant has underlying health conditions that put her at high risk of complications if she contracts COVID-19. She requested a leave of absence effective September 7, 2020, and provided a doctor's note to her supervisor supporting her need for the leave of absence. Employer granted her request. On October 5, 2020, claimant notified her supervisor she would return to work on October 12, 2020. However, after notifying employer she would return, claimant's doctor advised her to not return to work until the pandemic was over. Claimant was scheduled to work on October 12, 13, and 14, 2020, but did

not report to work or call in absent. Claimant did not notify employer she would not be returning to work. After the third consecutive no call no show, claimant was considered to have voluntarily quit her job pursuant to employer's policy. Employer had continuing work available for claimant.

Claimant has not been released by her doctor to return to work.

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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

In this case, claimant had an intention to quit and carried out that intention by failing to come to work for any further scheduled shifts. 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). Claimant could have notified employer that she would not be returning to work but simply chose not to work her scheduled shifts.

Claimant left her job due to a fear of contracting COVID-19 because she believed there was a positive COVID-19 case in the office. She was concerned about her underlying health conditions. In October 2020, claimant spoke to her doctor after being home for six weeks and

decided she should not return to work because the risk was too high for her if she became sick. Claimant was scheduled to return to work on October 12, 2020. However, she did not return to work and did not give notice to her employer. Claimant failed to establish she resigned for a good cause reason attributable to employer. 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 January 7, 2021, (reference 02) 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.



Stephanie Adkisson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

March 25, 2021
Decision Dated and Mailed

sa/kmj

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.