

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**KAREN P POLLION**  
Claimant

**THE UNIVERSITY OF IOWA**  
Employer

**APPEAL 21A-UI-19760-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/11/21  
Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

On September 7, 2021, Karen Pollion (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated August 31, 2021 (reference 01) that disqualified claimant from unemployment insurance benefits based on a finding she voluntarily quit work on June 25, 2021 for personal reasons.

A telephone hearing set for October 28, 2021. The parties were properly notified of the hearing. The claimant participated personally. The University of Iowa (employer/respondent) participated by HR Associate Scott Coons. At that time it was determined claimant had sent proposed exhibits to the Appeals Bureau and employer but those were not received. The hearing was rescheduled with directions to resubmit the proposed exhibits so they could be considered at the next hearing.

A rescheduled hearing was set for November 22, 2021. Claimant and Mr. Coons participated again at that time. Claimant's Exhibits 1 and 2 were admitted. Official notice was taken of the administrative record.

**ISSUE(S):**

- I. Was the separation from employment a layoff, discharge for misconduct, or voluntary quit without good cause?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant worked for employer full-time as a custodian. Claimant's first day of employment was August 24, 2020. The last day claimant worked on the job was June 25, 2021. Claimant resigned effective that date.

Claimant resigned for medical reasons. Employer had granted claimant's prior request for FMLA leave due to her medical condition. Claimant did not request further medical leave or accommodation that might have kept her working. Claimant's doctor did not recommend she

resign. There is no evidence to support the medical conditions were caused by employer. Claimant has not since recovered and attempted to return to work for employer.

Claimant also resigned in part due to a staff shortage which had resulted in additional duties for claimant for several months. However, a month or more prior to her resignation employer had hired another employee to assist her with those duties.

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

For the reasons set forth below, the decision dated August 31, 2021 (reference 01) that disqualified claimant from unemployment insurance benefits based on a finding she voluntarily quit work on June 25, 2021 for personal reasons is **AFFIRMED**.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. But the individual shall not be disqualified if the department finds that:

*d.* The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.25 provides in relevant part:

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:

(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 for work from a licensed 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.

Iowa Admin. Code r. 871-24.26 provides in relevant part:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(6) Separation because of illness, injury, or pregnancy.

*a. Nonemployment related separation.* The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). 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).

Employer has carried its burden of proving claimant's departure from employment was voluntary. However, claimant has not carried her burden of proving the voluntary leaving was for good cause attributable to employer. Benefits must therefore be denied.

Claimant resigned for medical reasons without a doctor's recommendation that she do so, the medical reasons were unrelated to the employment, and she has not since recovered and attempted to return to work for employer. This is not a good cause reason for leaving employment that is attributable to employer. To the extent claimant resigned due to a staff shortage, that issue had been addressed by the time she resigned and so is not a good cause reason or resignation attributable to employer either.

**DECISION:**

The decision dated August 31, 2021 (reference 01) that disqualified claimant from unemployment insurance benefits based on a finding she voluntarily quit work on June 25, 2021 for personal reasons is **AFFIRMED**. Claimant's separation from employment was disqualifying. Benefits must be denied, and employer's account shall not be charged. This disqualification shall continue until claimant has earned wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is not otherwise disqualified or ineligible.



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

November 30, 2021  
Decision Dated and Mailed

abd/abd

***Note to Claimant:***

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.