

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MARY A MILLER
Claimant

MENARD INC
Employer

APPEAL 22A-UI-00365-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/31/21
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated November 24, 2021, (reference 04) that held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on January 25, 2022. Claimant participated along with her witness Dawn Spambrough. Employer participated by Dena Moore, Human Resources Coordinator. Employer's Exhibit 1 was admitted into evidence. The administrative law judge took official notice of the administrative record including the fact-finding documents.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on April 26, 2021. Claimant did not come back to work after that date.

Claimant began working for employer on November 8, 2013 as a full-time team member. Claimant received on the job training, and a copy of employer's written rules and policies at the time of hire.

Claimant was injured outside of work on April 26, 2021. She was in the hospital for approximately ten days. Claimant requested a medical leave of absence from employer, and that leave was approved.

Employer did not have any contact with the claimant after she filed her request for family medical leave on May 9, 2021. On her application for leave it states that she is due back at work by June 9, 2021.

On or about June 6, 2021 employer sent claimant a letter by certified mail and by regular first class mail requesting an update on her return to work status. Claimant did not accept the certified mail, and she did not respond to employer's written requests. Claimant did not contact the employer, and did not return to work by June 9, 2021.

On June 29, 2021 employer had still not heard from claimant, and she had not responded to its attempts to ascertain her availability for work. Employer decided to terminate her employment on that date as of June 9, 2021 because she had abandoned her employment.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship by abandoning her employment.

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(20) 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:

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

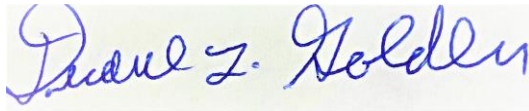
Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer. Benefits must be denied.

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>. If this decision becomes final, or if you are not eligible for PUA, you may have an overpayment of benefits.

DECISION:

The decision of the representative dated November 24, 2021, (reference 04) is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.



Duane L. Golden
Administrative Law Judge

February 17, 2022

Decision Dated and Mailed

dlg/abd