

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CYNTHIA L HIERS
Claimant

SAFELITE SOLUTIONS LLC
Employer

APPEAL 21A-UI-14655-ML-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/28/21
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the June 23, 2021, (reference 01) unemployment insurance decision that denied benefits based upon her voluntarily quitting work without good cause attributable to the employer. The parties were properly notified of the hearing. A telephone hearing was held on August 5, 2021. The claimant, Cynthia Hiers, participated personally. The employer, Safelite Solutions, LLC, participated through Representative Erin Bewley and Leave of Absence Specialist Sheena Hahn.

Claimant's Exhibits 1, 2, and 3 were offered and accepted into the evidentiary record. Official notice was taken of the administrative record.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a customer service representative. She began working for this employer on March 11, 2019, and her employment ended on September 11, 2020.

Claimant has a medical condition that puts her at an increased risk of suffering complications from COVID-19. Fearing the potential for a workplace exposure to COVID-19, Claimant requested a leave of absence on or about March 30, 2020. The employer granted her an extended leave of absence from work during the COVID-19 pandemic. In total, Claimant was on a leave of absence from March 30, 2020, to September 11, 2020.

Due to personal reasons, Claimant and her family decided to move to Council Bluffs, Iowa in the Fall of 2020. The potential for job opportunities was also a driving force behind Claimant's decision to move to the Council Bluffs, Iowa/Omaha, Nebraska area.

Claimant tendered her resignation via e-mail on August 28, 2020, with an effective date of September 11, 2020. The e-mail explained that because it did not appear as though a vaccine for COVID-19 would be available in the near future, and because the employer did not have any alternative/remote work available to her, she would be resigning. However, the e-mail also provided that claimant would be moving to Council Bluffs, Iowa, where she would have better opportunities to work. Lastly, the e-mail stated that she would be happy to work for the employer until September 11, 2020, provided that the employer could find her alternative/remote work that followed the Centers for Disease Control and Prevention (CDC) guidelines. The undersigned reads this final statement as an indication that claimant would be voluntarily quitting on September 11, 2020, regardless of whether alternative work was provided, because of the move to Council Bluffs, Iowa. Such an understanding is supported by claimant's appeal application.

In her appeal application, claimant provided that she left her job "only due to my daughter[']s mental health." The application further provides, "I would not have left my employment with Safelite Solutions at that time if it not for my daughter's mental health." Claimant moved to the Council Bluffs, Iowa area to be closer to family and better mental health care facilities. Claimant asserts she would have moved sooner; however, her family was locked into a lease agreement until approximately September, 2020.

Claimant was on an approved leave of absence when she voluntarily quit. There were no plans on the part of the employer to end claimant's leave of absence. Claimant was not going to be discharged or laid off for lack of work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code §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.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

In this case, Claimant tendered her resignation to the employer. As such, this case must be analyzed as a voluntary quit case and not a discharge case. 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).

Iowa Admin. Code r. 871-24.25(2, 21, 23, 37) 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 § 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 § 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.

(21) The claimant left because of dissatisfaction with the work environment.

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

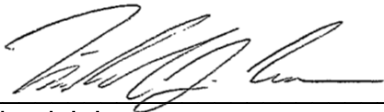
(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused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

Claimant tendered a written resignation which was accepted. She moved to Council Bluffs, Iowa for compelling personal reasons, and for more COVID-19 friendly job opportunities. 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 according to Iowa law. 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 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>.

DECISION:

The June 23, 2021, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit employment without good cause attributable to the employer. Regular unemployment insurance benefits funded by the state of Iowa are denied.



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

August 20, 2021
Decision Dated and Mailed

mjl/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.

If you do not qualify for regular unemployment insurance benefits due to disqualifying separations and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). You will need to apply for PUA to determine your eligibility under the program. More information about how to apply for PUA is available online at:

www.iowaworkforcedevelopment.gov/pua-information

If you have applied and have been approved for PUA benefits, this decision will not negatively affect your entitlement to PUA benefits.

You may find additional information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>