

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KAITLYN VAN DORN
Claimant

APPEAL 21A-UI-21373-ED-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

WARRINGTON DENTAL PC
Employer

OC: 10/27/19
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 13, 2020 (reference 06) unemployment insurance decision that denied benefits based on claimant having voluntarily quit employment. The parties were properly notified of the hearing. A telephone hearing was held on November 19, 2021. The claimant, Kaitlyn Van Dorn participated personally. The employer, Warrington Dental P.C. participated through its employee Melanie Kroese.

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 front office associate for the employer. Her employment started December 30, 2019 and her last day worked was March 19, 2020. On March 19, 2020 the employer, a dental office, shut down as mandated by the state of Iowa due to the COVID-19 pandemic. For a week or so the employees were paid by the employer, but ultimately applied for unemployment. Beginning May 18, 2020 the employer began bring employees back in shifts. On June 7, 2020 after having be recalled by the employer, the claimant sent an email to the employer stating that she would not be returning to work due to the fact that she was playing live music where she was closely exposed to the public.

REASONING AND CONCLUSIONS OF LAW:

As a preliminary matter, the administrative law judge finds that the claimant was not terminated for misconduct.

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit but not for good cause attributable to the employer. Benefits are denied.

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.

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:

(19) The claimant left to enter self-employment.

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

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).

It is the duty of the administrative law judge to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* When deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

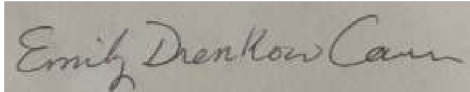
Claimant's acknowledged resignation email at time of separation stated that she preferred not to return to the employer due to the fact that her live music was more than a hobby, but was a source of secondary income. Claimant could not do that without being exposed to the public which given the nature of the employer's business was not something it could have happen. Claimant also stated that she was leaving to put more focus on her part time photography business.

Claimant testified that she was bullied by her co-workers and scared to report it to her immediate supervisor. However she admitted that her supervisor had never yelled at her or raised her voice to claimant. Claimant said she also quit because of her back injury, an injury which she never provided proof of, and one due to which the employer allowed her to have first

selection of chairs. Claimant left to enter self-employment as a photographer and musician, and her dissatisfaction with the work environment. Claimant failed to carry the burden of proof. Claimant voluntarily quit without good cause attributable to the employer. As such benefits are denied.

DECISION:

The October 13, 2020 (reference 06) unemployment insurance decision is affirmed. Claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.



Emily Drenkow Carr
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December 30, 2021
Decision Dated and Mailed

ed/kmj