

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LUCINDA K DIRKS

Claimant

APPEAL 21A-UI-14003-AR-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY

Employer

OC: 03/21/21

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On June 12, 2021, the claimant, Lucinda K. Dirks, filed an appeal from the June 3, 2021, (reference 01) unemployment insurance decision that denied benefits based on the determination that claimant quit employment with the employer, Casey's Marketing Company, without showing good cause attributable to the employer for having done so. The parties were properly notified about the hearing. A telephone hearing was held on August 5, 2021. Claimant participated personally. The employer did not participate.

ISSUE:

Did the claimant quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed part-time as a clerk. She was separated on approximately March 1, 2020, when she resigned.

At the time claimant separated from employment, the COVID-19 pandemic was setting in around Iowa. Claimant has underlying health conditions and was worried about the effect COVID-19 would have on her if she contracted it. Around March 1, 2020, she talked to her supervisor, Amber, about her worries related to COVID-19. Claimant did not feel safe working with the public due to the pandemic, and the store where she worked was very busy. Ultimately, though the employer had claimant scheduled for shifts, claimant simply stopped going to work. She testified that she was very worried about her health, and was attempting to listen to the recommendations of social distancing and isolation. Shortly after she separated from employment, her doctor did recommend that she quarantine for two weeks. Her doctor never explicitly told claimant that she could not work. Claimant does not remember telling anyone at the employer that she quit, or that anyone at the employer informed her that she was separated from employment.

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 § 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(21) 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:

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

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).

The administrative law judge is sympathetic to claimant's efforts to protect herself from the COVID-19 pandemic. However, she has not demonstrated that her leaving was due to the employer or its failure to act in the face of the COVID-19 pandemic. 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 June 3, 2021, (reference 01) 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.



Alexis D. Rowe
Administrative Law Judge

August 11, 2021
Decision Dated and Mailed

ar/lj