

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DARLENE E KING

Claimant

DGS-ACQUISITIONS, LLC

Employer

APPEAL 21R-UI-03441-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/26/20

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

Iowa Code § 96.5(2)a – Voluntary Quit

STATEMENT OF THE CASE:

Darlene A King, the claimant/appellant filed an appeal from the October 13, 2020, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about a telephone hearing scheduled for March 24, 2021 at 8:00 a.m. Ms. King did not provide a telephone number at which she could be reached for the scheduled hearing. The employer followed the instructions on the hearing notice. Because Ms. King did not follow the instructions on the notice of hearing, no hearing was held.

ISSUE:

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Ms. King began working for the employer on November 20, 2019. She worked as a part-time cashier.

The employer's policy provides that if an employee is absent three consecutive scheduled days, the employee must provide a doctor's note. As a matter of practice, if an employee does not provide a doctor's note, the employee is not allowed to attend work for 3-4 days to ensure that the employee does not get other employees sick. The employee is then issued a verbal or written warning and scheduled to work again. The policy also provides that if an employee is a No-Call/No-Show for three consecutive days, the employee is considered to have voluntarily quit. Ms. King acknowledged receiving the policy on November 20, 2019. Ms. King testified that she was not familiar with the policy because she did not read it because she did not get sick.

Ms. King was scheduled to work on January 8, 11, and 14, 2020. She called in sick all three days. The employer asked Ms. King to provide a doctor's note. Ms. King told the employer that she would not provide a doctor's notice because she does not believe in doctors. The employer

told Ms. King that she needed to provide a doctor's note before she could return to work. Ms. King refused to do so. The employer never told Ms. King that her employment was over.

Ms. King was scheduled to work on January 15, 18, 21, 22 and 25, 2020. Ms. King did not attend work any of these days. The employer called Ms. King on January 15 and 18 but Ms. King did not answer the calls or respond to the calls. The employer considered Ms. King's January 15 and January 18 absences and the days in between as the days she was not allowed at work. When Ms. King did not attend work and did not call in on January 21, 22 and 25, the employer considered her to have voluntarily quit. About two weeks later, Ms. King called the employer and asked if she could be rehired. They declined.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. King's separation from the employment was without good cause attributable to the employer.

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 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:

- (1) The claimant was absent for three days without giving notice to employer in violation of company rule.

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). 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).

In this case, Ms. King chose not to provide a doctor's note for her own personal reasons. Ms. King then stopped attending work. She was absent for three days without giving notice. While Ms. King'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 October 13, 2020, (reference 01) unemployment insurance decision is affirmed. Ms. King 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.



Daniel Zeno
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

March 26, 2021
Decision Dated and Mailed

dz/scn