

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GINA L BULLARD
Claimant

CARE INITIATIVES
Employer

APPEAL 22A-UI-01721-DH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/28/21
Claimant: Appellant (5)**

Iowa Code § 96.5(1) - Voluntary Quit
Iowa Code § 96.5(2)a - Discharge for Misconduct
Iowa Admin. Code r. 871-24.25(37) - resignation accepted by employer

STATEMENT OF THE CASE:

Claimant, Gina Bullard filed an appeal from the December 20, 2021, (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit on November 5, 2021. The parties were properly notified about the hearing. A telephone hearing was held on February 10, 2022. Claimant participated. Employer, Care Initiatives, participated through Frankie Patterson, party representative, and Sarah Dietz, administrator. Neither party submitted exhibits. Judicial notice was taken of the administrative file and the contents therein.

ISSUE:

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

FINDINGS OF FACT:

Having heard the testimony and reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a registered nurse from August 17, 2020, until some date in October of 2021. On November 1, 2021, she was separated from employment when she voluntarily quit. She called her employer six hours prior to the start of her shift to advise she was not coming in and was quitting. She was concerned about getting COVID-19 and then spreading it to her family. The employer accepted her resignation. Claimant testified that the decision was hers alone and was not based upon the direction or advice of her physician. Claimant was going to retire from nursing but did not tell her employer this reason for quitting.

Claimant was rehired by employer and started back to work as a registered nurse on January 24, 2022.

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.

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).

Where multiple reasons for the quit, which are attributable to the employment, are presented the agency must "consider that all the reasons combined may constitute good cause for an employee to quit, if the reasons are attributable to the employer." *McCunn v. Empl. Appeal Bd.*, 451 N.W.2d 510 (Iowa App. 1989) (citing *Taylor v. Iowa Dept. of Job Serv.*, 362 N.W.2d 534 (Iowa 1985)). "An employee may choose to leave employment for several reasons, with each reason important in the decision to quit." *Taylor*, 362 N.W.2d at 540.

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:

Iowa Admin. Code r. 871-24.25(37) provides:


(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.

Iowa Admin. Code r. 871-24.25(24) addresses retirement and is also disqualifying, but while a reason of claimant's, she did not share it with employer, so it will not be fully addressed herein.

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 December 20, 2021, (reference 01) unemployment insurance decision is **MODIFIED** with no change in effect. Benefits are denied, and the voluntary quit date is modified to November 1, 2021, from November 5, 2021. Claimant voluntarily left their employment without good cause attributable to the employer. Benefits are withheld until such time as they have worked in and been paid wages for insured work equal to ten times their weekly benefit amount, provided they are otherwise eligible.



Darrin T. Hamilton
Administrative Law Judge

March 2, 2022

Decision Dated and Mailed

dh/abd