

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**KAYLA L GARDNER**  
Claimant

**BARTELS LUTHERAN HOME INC**  
Employer

**APPEAL 19A-UI-06518-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/21/19  
Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Admin. Code r. 871-24.27 – Voluntary Quitting Part-time Employment  
Iowa Admin. Code r. 871-24.19(1) – Determination and Review of Benefit Rights

**STATEMENT OF THE CASE:**

On August 16, 2019, Kayla L. Gardner (claimant) filed an appeal from the August 7, 2019, reference 04, unemployment insurance decision that denied benefits based upon the determination she voluntarily quit employment with Bartels Lutheran Home, Inc. (employer) for personal reasons which does not constitute good cause attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on September 11, 2019. The claimant participated. The employer participated through Director of Assisted Living Chelsea Peterson and H.R. Generalist Amber McLey. The Employer's Exhibit 1 was admitted over the claimant's objection and the Employer's Exhibit 2 was admitted without objection. The administrative law judge took official notice of agency records related to the claimant's wage and claim history.

**ISSUES:**

Did the claimant voluntarily quit the employment with good cause attributable to the employer?  
Is the claimant otherwise monetarily eligible for benefits?  
Has the claimant requalified for benefits since the separation?

**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 Resident Assistant beginning on May 19, 2014, and her last day worked was July 14, 2019.

On July 2, the claimant notified her supervisor she was quitting her part-time position effective July 15 due to other jobs she was working and personal issues. She requested to go to an as-needed (PRN) position, but the employer did not have a PRN position available at the time of the request. The employer accepted the claimant's resignation from the part-time employment and her employment ended.

The administrative record shows, the claimant filed her claim for benefits effective April 21, 2019 and her weekly benefit amount is \$177.00. She reactivated her claim for benefits July 21. The base period for the claim includes all four quarters of 2018. The only other employer the claimant had during the base period was Hy-Vee in the first quarter of 2018 who reported \$36.00 in wages.

On July 22, the claimant was laid off from the full-time employment she began on January 16. She has reported wages earned from another part-time position in the amount of \$101.00 since reactivating her claim.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes the claimant voluntarily quit the employment without good cause attributable to the employer, has not requalified, and is not otherwise monetarily eligible for benefits.

Iowa Code section 96.5(1) provides, in relevant part:

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.

...

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

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:

...

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

...

(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. 871-24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on Form 65-5323, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

This rule is intended to implement Iowa Code section 96.5(1)"g."

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, the claimant expressed an interest in leaving her current position and wrote a resignation letter. She did not ascertain whether a PRN position was available or had been approved before resigning. The employer accepted the claimant's resignation. The claimant's separation is disqualifying. Additionally, she has not requalified for benefits by earning ten times her weekly benefit amount in insured wages since the separation and is not otherwise monetarily eligible according to base period wages. Benefits are denied until the claimant requalifies and is otherwise eligible for benefits.

**DECISION:**

The August 7, 2019, reference 04, unemployment insurance decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer, has not requalified for benefits, and is not otherwise monetarily eligible. Benefits are withheld until such time as she works in and has been paid wages equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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