

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**RONNEQUA C CLAYTON**  
Claimant

**BETHANY LUTHERAN HOME INC**  
Employer

**APPEAL 21A-UI-24077-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/12/21  
Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

On October 28, 2021, Ronnequa Clayton (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated October 20, 2021 (reference 01) that disqualified claimant from unemployment insurance benefits based on a finding she voluntarily quit work on September 15, 2021 without good cause attributable to employer.

A telephone hearing was held on December 20, 2021. The parties were properly notified of the hearing. The claimant participated personally. Bethany Lutheran Home Inc (employer/respondent) did not participate.

Claimant's Exhibit 1 was admitted. Official notice was taken of the administrative record.

**ISSUE(S):**

- I. Was the separation from employment a layoff, discharge for misconduct, or voluntary quit without good cause?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant's first day of employment was September 1, 2015. Claimant worked full-time for employer as a Certified Nursing Assistant (CNA). In this role claimant provided direct care to patients, including assisting with eating and bathing. Claimant's immediate supervisor was Robin Kelso. The last day claimant worked on the job was September 4, 2021. Claimant separated from employment on September 15, 2021. Claimant informed Kelso of her resignation on that date.

Claimant resigned due to health and safety concerns. Claimant was assigned to provide care for patients who were positive for Covid-19 but had not yet been moved to the site for patients who were positive for Covid-19 or who were not moved to that site because it was full. However, employer was not timely notifying claimant that these patients were positive for Covid-19 so she could take proper precautions. This mean claimant was caring for the patients without full PPE, including two face masks, goggles, a mask, gloves, and a gown. She would instead care for these

patients with just a mask and gloves. Claimant believes this resulted in her contracting Covid-19, which she tested positive for on September 4, 2021.

Claimant previously raised concerns with Kelso about not being informed when patients she was caring for were positive for Covid-19. Kelso advised claimant to always wear full PPE if she was concerned about contracting Covid-19. However, full PPE was often unavailable in sites other than the site for patients who were positive for Covid-19. The issue of employer not informing claimant and others of the Covid-19 status of patients they were caring for persisted until claimant's separation.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons set forth below, the decision dated October 20, 2021 (reference 01) that disqualified claimant from unemployment insurance benefits based on a finding she voluntarily quit work on September 15, 2021 without good cause attributable to employer is REVERSED.

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. 871-24.26 provides in relevant part:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(2) The claimant left due to unsafe working conditions.

(4) The claimant left due to intolerable or detrimental working conditions.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. A voluntary quitting of employment requires that an employee

exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). 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 finds claimant has carried her burden of proving the voluntary leaving was for good cause attributable to employer. The evidence establishes employer failed to notify claimant of the Covid-19 status of patients she was caring for and provide her proper PPE for doing so. A reasonable person would find this so unsafe, intolerable, or detrimental as to justify resignation, particularly where claimant had previously raised concerns about this which went unaddressed. The separation from employment was not disqualifying.

**DECISION:**

The decision dated October 20, 2021 (reference 01) that disqualified claimant from unemployment insurance benefits based on a finding she voluntarily quit work on September 15, 2021 without good cause attributable to employer is REVERSED. The separation from employment was not disqualifying. Benefits are allowed, provided claimant is not otherwise disqualified or ineligible. Employer's account is subject to charge.



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Andrew B. Duffelmeyer  
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December 29, 2021  
Decision Dated and Mailed

abd/abd