

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARK H KIME
Claimant

MAHASKA COUNTY HOSPITAL
Employer

APPEAL 15A-UI-14353-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/29/15
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 21, 2015, (reference 01) unemployment insurance decision that denied benefits based upon voluntarily quitting. The parties were properly notified of the hearing. A telephone hearing was held on January 20, 2016. The claimant, Mark Kime, participated. The employer, Mahaska County Hospital, participated through Human Resources Director Jacky Bresnahan and Director of Emergency Services Andrea Hagist. Claimant's Exhibit A was admitted. Employer's Exhibits 1 and 2 were admitted.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as an EMT from April 2, 2002, until this employment ended on November 28, 2015, when he resigned.

Claimant took one week of bereavement leave in late October 2015. When he returned from bereavement leave, he noticed the employer had hired another full-time paramedic. He also saw the schedule for the first two weeks in December around this time, and he saw that he was dropped from three shifts to two shifts. He became concerned that he was being dropped down to part-time employment. He sent an email to Sam Moss, the ambulance coordinator, and expressed concern about his hours being cut. He never received a response.

On November 13, claimant delivered his written resignation to Andrea Hagist. This resignation was intended to be effective immediately. (Employer's Exhibit 2) Hagist responded that she was sorry he was leaving. Later, Hagist realized that claimant would lose approximately ten weeks of PTO if he did not leave with at least two weeks' notice. She reached out to claimant

via telephone to inform him of this, and he agreed to provide a two-week notice. Claimant stated he intended to take care of his father after he left his employment. During a subsequent performance evaluation, Hagist told claimant he was only given two shifts on one particular upcoming week so he could take vacation time, as he was going to lose his accrued leave if he did not begin taking it.

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. Benefits are denied.

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(37) 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:

(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.

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).

Claimant demonstrated an intention to terminate his employment when he drafted his resignation letter to Hagist, and he carried out that intention by delivering it to Hagist personally and confirming his intention to resign over the telephone. While his concern about the apparent reduction in his hours is understandable, a reasonable person would likely reach out to the employer directly and confirm that the hours were permanently reduced before resorting to resignation. Claimant has not met his burden of showing he quit for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The December 21, 2015, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/pjs