

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

REBECCA M SCHOCKER
Claimant

R J PERSONNEL INC
Employer

APPEAL 16A-UI-09798-DB-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/27/16
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the August 31, 2016 (reference 04) unemployment insurance decision that denied benefits based upon her voluntarily quitting work without good cause attributable to the employer. The parties were properly notified of the hearing. A telephone hearing was held on October 7, 2016. The claimant, Rebecca M. Schocker, participated personally. The employer, R J Personnel Inc., participated through Account Manager Holly Jacobi. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits record.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as an administrative assistant. This employer is a temporary employment firm. Claimant was placed on a job assignment with a trucking company. This job assignment consisted of claimant working on April 11, 13, and 14, 2016 for four hours per day. If, after this time, the employer chose claimant to continue working at this job placement she would continue working in full-time employment there. Ms. Jacobi was the contact with the employer who placed claimant in this job placement.

Claimant worked on April 11, 2016. Claimant did not work on April 13, 2016 due to transportation issues. On April 13, 2016 claimant left a voicemail message telling Ms. Jacobi that she was quitting for personal reasons. The personal reason why claimant was quitting was because she had learned that she had been approved for unemployment insurance benefits. Claimant had received no discipline during the course of her employment with this employer. There was continuing work available to claimant had she not voluntarily quit. Claimant was not going to be discharged or laid off for lack of work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

In this case claimant tendered her verbal resignation to Ms. Jacobi when she left her a voicemail message stating that she was quitting and she failed to come to work for any further shifts. As such, this case must be analyzed as a voluntary quit case and not a discharge case.

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).

Iowa Admin. Code r. 871-24.25(12) 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 § 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 § 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:

(12) The claimant left without notice during a mutually agreed upon trial period of employment.

Iowa Admin. Code r. 871-24.25(27) 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 § 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 § 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:

(27) The claimant left rather than perform the assigned work as instructed.

Claimant tendered a verbal resignation to the employer prior to the trial period of employment ending. She left rather than performing the assigned work as scheduled. Claimant quit because she had been approved for unemployment insurance benefits. This is not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The August 31, 2016 (reference 04) unemployment insurance decision is affirmed. Claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits shall be withheld in regards to this employer until such time as claimant is deemed eligible.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

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