

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LINDE R LEAHY
Claimant

IA DEPT OF HUMAN SVCS/WOODWARD
Employer

APPEAL 21A-UI-04540-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/29/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting from Employment

STATEMENT OF THE CASE:

On February 2, 2021, the claimant, Linde R. Leahy, filed an appeal from the January 25, 2021 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit her employment for personal reasons. The parties were properly notified of the hearing. A telephonic hearing was held on Wednesday, April 14, 2021. The claimant, Linde R. Leahy, participated. The employer, Iowa Department of Human Services / Woodward, participated through witnesses Amy Monaghan, Human Resource Associate; Lacey Pyle, Treatment Program Supervisor; and Jennifer Wyant, Assistant Superintendent; and hearing representative Barbara Buss from Corporate Cost Control represented the employer. Claimant's Exhibit A was received and admitted into the record without objection.

ISSUE:

Did claimant Linde R. Leahy voluntarily quit her employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time, most recently as a resident treatment worker, from June 3, 2016, until November 12, 2020, when she quit effective immediately.

On November 12, Pyle called claimant in to do her timesheet. While claimant was in Pyle's office doing her timesheet, Pyle mentioned that there were additional hours that needed to be covered because someone had COVID-19. At that point in the conversation, claimant mentioned that she was considering putting in a two-week notice. Later that day, claimant called Monaghan and quit her position effective immediately. Continued work was available, had claimant not quit.

Claimant was physically and emotionally exhausted due to the amount of overtime hours she had been working. Claimant's typical work schedule was to work 80 hours in a seven-day period and then have seven days off. Once the pandemic hit, claimant worked an additional

eight hours every two weeks. This additional eight hours was not mandated by the employer. Claimant could have asked not to work these hours, but she never approached the employer with that request. Toward the end of claimant's employment, effective October 1, the employer mandated that all employees work two hours of overtime each week.

Claimant had seen her doctor and had taken FMLA leave related to her physical and emotional exhaustion. The employer accommodated claimant's need for leave. Claimant did not request any other accommodations during her employment. Her healthcare provider did not instruct her to quit her job.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation was without good cause attributable to the employer. Benefits are withheld.

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. 871-24.26(1) provides:

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:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). In general, a substantial pay reduction or increase of 25 to 35 percent or a similar reduction or increase of working hours creates good cause attributable to the employer for a resignation. *Dehmel v. Emp't Appeal Bd.*, 433 N.W.2d 700 (Iowa 1988).

Here, claimant's hours were only required to increase by two hours every week. This is not a substantial change in her contract of hire.

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: ...

(18) The claimant left because of a dislike of the shift worked.

...

(21) The claimant left because of dissatisfaction with the work environment.

"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). Here, claimant ended her employment because she was exhausted from the number of hours she had been working. While this was certainly understandable, she was not mandated to work the number of hours that she had been working. She did not approach the employer to inquire about changing her schedule or reducing her hours in order to preserve her employment. Claimant's decision to end her employment was without good cause attributable to the employer.

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 communicated her clear intention to terminate her employment relationship with the employer when she spoke to Monaghan on the telephone. While claimant had good personal reason to quit her employment, claimant's separation was without good cause attributable to the employer. Benefits must be withheld.

DECISION:

The January 25, 2021 (reference 01) unemployment insurance decision is affirmed. Claimant separated from employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.



Elizabeth A. Johnson
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April 19, 2021
Decision Dated and Mailed

lj/scn