

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TAMIKO KEARNEY
Claimant

ADVANCE SERVICES INC
Employer

APPEAL 21A-UI-18721-DB-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/21/21
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the August 23, 2021 (reference 03) unemployment insurance decision that denied benefits to the claimant based upon a voluntarily quitting work. The parties were properly notified of the hearing. A telephone hearing was held on October 15, 2021. The claimant participated personally. The employer participated through witness Melissa Lewien. The employer's Exhibits 1, 2, and 3 were admitted. The administrative law judge took official notice of the claimant's unemployment insurance benefits records. The claimant dropped off the conference call on two separate occasions. The administrative law judge telephoned the claimant back on both occasions. The claimant answered on the first call back and did not answer on the second call back. The administrative law judge left a voicemail message for the claimant to return the call as soon as possible. The claimant did not return the call prior to the record being closed.

ISSUE:

Did claimant voluntarily quit the employment with 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 assembler. She was a temporary employee for this temporary employment firm. She was placed on assignment to OHE Industries. She worked one day, May 25, 2021. She was scheduled for continuing work; however, she took a day off on May 26, 2021; she called in stating her son was ill on May 27, 2021; she called in stating that her son was again ill on May 28, 2021; she did not return to work on May 31, 2021 and did not call to notify this employer of her absence. On June 3, 2021, the employer reached out to her to inquire why she did not come to work. She stated she was caring for her ill mother in Chicago. The employer spoke to a representative from OHE Industries to inquire whether the claimant could continue working on that job assignment and she was given a second chance to return to work. She was scheduled to work on June 7, 2021; however, she did not show up for work or notify the employer she was not coming in. The employer had no further contact from the claimant. Continued work was available if the claimant would have come to work. Claimant contends that she contacted Tammy, an employee for this employer, and notified her that her

vehicle was not working and she had no transportation to get to work. Claimant does not remember when this communication occurred.

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.

Claimant had an intention to quit and carried out that intention by failing to return to the employer to work. As such, 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(23) 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:

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

Iowa Admin. Code r. 871-24.25(1) 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:

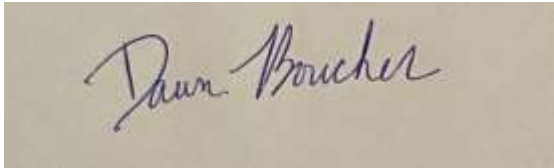
(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

Whether the claimant failed to return to work due to caring for her son or mother; or whether it was because she had no transportation to the work site, both reasons are disqualifying. The

claimant's voluntary quitting was not for a good-cause reason attributable to the employer according to Iowa law. As such, the separation from employment is disqualifying and unemployment insurance benefits funded by the State of Iowa must be denied.

DECISION:

The August 23, 2021 (reference 03) unemployment insurance decision is affirmed. Claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits funded by the State of Iowa are denied until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount after her May 25, 2021 separation date, and provided she is otherwise eligible.

A rectangular box containing a handwritten signature in blue ink that reads "Dawn Boucher".

Dawn Boucher
Administrative Law Judge

October 21, 2021
Decision Dated and Mailed

db/ol