

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

SHELLEY M WINEY

Claimant

and

CONIFER REVENUE CYCLE SOLUTIONS

Employer

HEARING NUMBER: 20BUI-04149

**EMPLOYMENT APPEAL BOARD
DECISION**

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A REHEARING REQUEST shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-1

DECISION

UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE

The Employer appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board, one member dissenting, finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board **REVERSES** as set forth below.

FINDINGS OF FACT:

The Claimant, Shelley Winey, worked for Conifer Revenue Recycle Solutions from August of 2019 through March 10, 2020. The Claimant was assigned to work at CHI in Council Bluffs at the front desk as a full-time patient access representative. Her duties included patient check-in for various departments; taking patients to labs, MRIs, etc. In October of 2019, the Claimant was moved to the ER where she performed the same duties. By working in the ER, the Claimant had face-to-face contact with patients as well as EMT personnel.

In February of 2020, the Employer was notified about the COVID virus. The Employer initiated a new protocol; the Claimant was directed to ask each patient she assisted if they'd been to China, or if the patient had been in contact with anyone who'd been to China.

The Claimant has an underlying condition - asthma, which caused her concern about working in the ER at this time. She did not inform the Employer of her health concern. The first week in March, the Claimant informed the Employer she intended to look for another job. The Claimant did not indicate that she was quitting anytime soon or the reason why. On March 9th, the Claimant called off sick. The next day, the Claimant texted the Employer that she quit due to health concerns. She did not provide any medical certification to the Employer about her health concern; nor did she request any type of accommodation to alleviate her concern. The Claimant's last day worked was March 8, 2020.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits: *Voluntary Quitting*. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

871 IAC 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...

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code §96.6(2) (amended 1998).

The record establishes the Claimant was performing the same duties she was hired to perform at the front desk, and in the ER where she was moved in October of 2019. This change in location occurred months prior to the Employer's notification of the COVID virus for which the Employer implemented safety measures as it became aware of the new information. There is nothing in the record to establish the Employer was under any directive from federal, state or local health departments to change its operating procedures. At the time the Claimant resigned, the Employer was unaware of any health or safety measures which they may have taken to alleviate claimant's present concern, if they had known. The court in *Cobb v. Employment Appeal Board*, 506 N.W.2d 445 (Iowa 1993), held established there are three elements required for a quit to be found with good cause attributable to the Employer:

- 1) Claimant must notify the employer of the work-related health condition;
- 2) Claimant must inform the employer the claimant will quit if reasonable accommodation not provided;
- 3) And the Claimant must give the employer a reasonable amount of time to provide reasonable accommodation.

If any or all of these elements are missing, the quit is *without* good cause.

In the instant case, when asked if she told her supervisor about her health concerns, the Claimant testified, "I had gone to my supervisor...a week to week and half earlier and told her I was probably going to be looking for another job and I just didn't want her to be alarmed if I didn't turn in my two-week notice..." Nowhere in her testimony does she indicate she informed the Employer she was

quitting because of health reasons due to her work environment. By not telling them specifically of her health concerns, she denied the Employer of any reasonable opportunity to accommodate her. By the Claimant's own testimony, she rarely quits without notice, as she'd done in this case.

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In order to qualify for unemployment compensation based on a voluntary quit, the Claimant bears the burden of proof. The Claimant has provided no evidence to support she was advised to quit by her doctor (see 871 IAC 24.26(6)"a"), or that the Employer refused to accommodate her concerns once she made them aware of the same. Had she made them aware, they may have moved her back to the front desk where she wouldn't have had the direct contact. Based on this record, the Claimant is disqualified from regular unemployment benefits.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. This decision will become final unless an application for rehearing, or a petition to district court is filed as set out above. In addition, individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations may still qualify for Pandemic Unemployment Assistance (PUA). You will need to apply for PUA to determine your eligibility under the program. Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

DECISION:

The administrative law judge's decision dated June 16, 2020 is **REVERSED**. The Employment Appeal Board concludes that the Claimant voluntarily quit without good cause attributable to the Employer. Accordingly, she is denied benefits until such time she has worked in and was paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. See, Iowa Code section 96.5(1)"g".

Ashley R. Koopmans

Myron R. Linn

DISSENTING OPINION OF JAMES M. STROHMAN:

I respectfully dissent from the decision of the Employment Appeal Board; I would affirm the decision of the administrative law judge in its entirety.

AMG/fnv