

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**SHELLY S WOOD**

Claimant

**APPEAL 21A-UI-02897-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CHRISTIAN OPPORTUNITY CENTER**

Employer

**OC: 03/15/20**

**Claimant: Appellant (1R)**

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the January 7, 2021 (reference 03) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on March 19, 2021, at 1:00 p.m. Claimant participated. Employer participated through Bre Brooks, Human Resources Director. Employer's Exhibit 1 was admitted. Official notice was taken of the administrative record.

**ISSUE:**

Whether claimant's separation was a voluntary quit 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 as a part-time Driver from February 7, 2020 until her employment with Christian Opportunity Center ended on October 28, 2020. Employer provided claimant with a van to transport clients. Claimant had a set route and worked an average of 20 hours per week.

When the pandemic began, employer provided disinfecting and cleaning supplies for the van. Claimant did not believe employer was providing adequate protection for her against Covid-19. Claimant purchased plastic and taped it up inside the van as a barrier between her and the passengers.

The pandemic affected claimant's work hours because there were not as many clients who needed transportation. Beginning in March 17, 2020, employer paid claimant for 25 hours per week at claimant's regular rate of pay even if claimant did not work 25 hours that week due to lack of work. On September 25, 2020, employer informed claimant that it would no longer supplement claimant's wages by paying her for hours that she did not work. Employer did not say when this change in policy would take effect.

On October 9, 2020, claimant submitted her written resignation to employer with an effective date of October 28, 2020. Employer had continuing work available for claimant if she had not quit. Claimant's job was not in jeopardy.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit without good cause attributable to employer. Benefits are denied.

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, 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).

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). The standard of what a reasonable person would have believed under the circumstances is applied in determining whether a claimant left work voluntarily with good cause attributable to the employer. *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993).

Where a claimant gives numerous reasons for leaving employment the agency is required to consider all stated reasons which might combine to give the claimant good cause to quit in determining any of those reasons constitute good cause attributable to the employer. *Taylor v. Iowa Dep't of Job Serv.*, 362 N.W.2d 534 (Iowa 1985).

Iowa Admin. Code r. 871-24.25(13), (21) provide:

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:

(13) The claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.

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

Iowa Admin. Code r. 871-24.26(1), (2), (4) provide:

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.

(2) The claimant left due to unsafe working conditions.

(4) The claimant left due to intolerable or detrimental working conditions.

It is the duty of the administrative law judge, as the trier of fact, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other evidence you believe; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The findings of fact show how I have resolved the disputed factual issues in this case. I assessed the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using my own common sense and experience. I find the employer's testimony to be more credible than the claimant's testimony. Claimant alleged that she quit because employer did not adequately protect her from Covid-19. Claimant worked under the same conditions for eight months prior to quitting. Therefore, claimant's testimony that she quit due to unsafe or detrimental working conditions lacks credibility. Claimant also alleged that she quit because employer was cutting her hours. Employer was not cutting claimant's hours; employer was eliminating the supplemental wages it was providing due to Covid-19. Employer had not ended its supplemental wages so the effect of the policy change was unknown. Furthermore, the change in policy would have placed claimant in the same position as when she accepted this employment. Therefore, claimant's testimony that she quit due to her hours being cut also lacks credibility.

Claimant's written resignation is both evidence of her intention to sever the employment relationship and an overt act of carrying out her intention. Claimant voluntarily quit her employment. Claimant provided multiple reasons for quitting her job. The administrative law judge has considered all of them and finds that none of them constitute good cause attributable to the employer. There was no change in claimant's contract of hire when she resigned. The working conditions were not unsafe or detrimental. Claimant has not met her burden of proving she voluntarily quit her employment for good cause attributable to employer. Benefits are denied.

The issues of whether claimant was totally, partially or temporarily unemployed after filing her claim for unemployment insurance benefits, whether claimant is able to and available for work, whether employer's account is subject to charge and whether claimant has been overpaid benefits will be remanded to Iowa Workforce Development Benefits Bureau for an initial investigation and decision.

**DECISION:**

The January 7, 2021 (reference 03) unemployment insurance decision is affirmed. Claimant voluntarily quit without good cause attributable to employer. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

**REMAND:**

The issues of whether claimant was totally, partially or temporarily unemployed, whether claimant is able to and available for work, whether employer's account is subject to charge and whether claimant has been overpaid benefits are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.



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March 30, 2021  
Decision Dated and Mailed

acw/scn