

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SIERRA PALS
Claimant

AGTAC SERVICES LLC
Employer

APPEAL 20A-UI-13038-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 14, 2020, (reference 03) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on December 16, 2020. The claimant participated and testified. The employer did not participate. Exhibits A and B were admitted into the record.

ISSUE:

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as full-time as a security officer from July 2019, and was separated from employment on March 29, 2020, when she quit. The claimant's immediate supervisor was Solomon Kelly. As a security officer, she would greet people as they came in and arrange for an escort through the employer's offices. The employer allowed security officers to use a mask during their shifts. This area had a physical barrier between the security officer and staff.

After the onset of the Covid19 pandemic, the employer requested security officers sit outside in a shed with a space heater and screen each employee for Covid19 infection before they entered the building. Specifically, security officers would ask each employee screening questions and if the employee answered in a particular way they would be sent to a nurse for further screening. It is unknown if this outside shed area had a physical barrier between the security officer performing screening and other staff.

On March 30, 2020, the claimant sent a doctor's note to Mr. Kelly via text message. (Exhibit B) The doctor's note reads in part, "Due to the recent Coronavirus pandemic, this patient is at higher risk for complications, should she be exposed to this virus and get infected. She is at higher risk due to having asthma. I was advised that patient would be working outdoors for

approximately two months and will potentially be exposed to many contacts. In this scenario, it would place patient at risk and do not recommend to work in this particular environment. At this time, I cannot advise on how long this is for, but will continue to recommend this as long as social distancing is recommended by public health.” (Exhibit A) In response, Mr. Kelly told the claimant to turn in her uniforms and identification card in the next week.

REASONING AND CONCLUSIONS OF LAW:

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

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. 871-24.25 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:

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

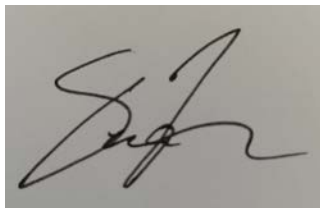
Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). “Good cause” for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm’n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). 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).

The claimant's medical restrictions effectively foreclose her from making the frequent contacts affiliated with her position and remove her from the labor market for an indeterminate amount of time. During the hearing, the claimant contended the employer should have reached out to her to accommodate her restrictions by removing duties requiring contacts with incoming employees. This is an essential function of a security officer position. The administrative law judge does not read the medical excuse as only excusing the claimant from working in the outdoor area either. While the employer's reassignment of claimant to perform duties outside is mentioned, the concern detailed in the excuse is claimant's repeated contacts with potentially

infected individuals. The claimant's submission of this broad medical excuse through a text message to Mr. Kelly without further clarification was an overt act to end her employment relationship with the employer. While claimant's leaving may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The October 14, 2020, (reference 03) unemployment insurance decision is affirmed. The claimant voluntarily left her 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.



Sean M. Nelson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 725-9067

January 19, 2021
Decision Dated and Mailed

smn/scn

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may 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>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.