

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAMIE L LEWIS
Claimant

IMAGINE THE POSSIBILITIES INC
Employer

APPEAL 20A-UI-13194-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/19/20
Claimant: Appellant (2)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 22, 2020, (reference 01) 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 22, 2020. Claimant Jamie L. Lewis participated and testified. Employer Imagine the Possibilities, Inc. did not participate.

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 a direct support professional from July 16, 2016, and was separated from employment on July 17, 2020, when she quit.

Claimant worked the overnight shift during her entire employment. She worked 10 p.m. to 6:00 a.m. on weeknights and every other weekend she worked 6:00 p.m. to 6:00 a.m. She worked in a group home setting and assisted adults with disabilities. She was available if a client needed medication or if there was an emergency.

On June 28, 2020, employer notified claimant it was eliminating all overnight shifts because it felt the clients did not need the supervision. Employer informed claimant it would move her to a morning shift. Claimant declined the offer and informed employer she resigned. She was concerned she would make an error with medications due to working with new clients and medications. Additionally, the daytime shift came with additional duties, such as taking clients to appointments or to run errands. Employer allowed claimant to continue working until July 17, 2020 when the last overnight position was eliminated.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was with 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:

(27) The claimant left rather than perform the assigned work as instructed.

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.

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).

If the employer significantly changes the worker's hours or type of work, the change is characterized as substantial. A change in one's hours or shift is a substantial change in one's contract for hire. Claimant quit work because employer changed her hours and shift. Employer

thus substantially changed the claimant's contract for hire when it changed claimant's hours from overnight to daytime hours. Therefore, the separation was not voluntary. Claimant resigned for a good cause reason attributable to employer. Claimant is qualified to receive unemployment insurance benefits provided she is otherwise eligible.

DECISION:

The October 22, 2020, (reference 01) unemployment insurance decision is reversed. Claimant resigned for a good cause reason attributable to employer. Benefits are allowed, provided claimant is otherwise eligible.



Stephanie Adkisson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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Fax (515)478-3528

January 7, 2021
Decision Dated and Mailed

sa/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 due to disqualifying separations, 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>.