

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHAEL M DEVORE
Claimant

APPEAL 20A-UI-04304-ED-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CEDAR RAPIDS COMM SCHOOL DIST
Employer

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

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

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the May 15, 2020, (reference 01) unemployment insurance decision that denied benefits based upon him voluntarily quitting work without good cause attributable to the employer. The parties were properly notified of the hearing. A telephone hearing was held on June 2, 2020. The claimant, Michael M. Devore, participated personally. The employer, Cedar Rapids Community School District, participated through Hearing Representative Erin Bewley and Principal Benjamin Happel. Employer's Exhibit A was admitted.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part time as a Van Driver. He began working for this employer on September 23, 2019. His job duties included driving a passenger van for the Cedar Rapids Community School District. His immediate supervisor was Jim Munch and Jason Kline. Claimant had received no discipline during the course of his employment.

Claimant became ill and was informed by his physician that he needed immediate treatment. Claimant's physician advised him a separation from work was necessary to treat his medication condition. Claimant informed his employer immediately in person of his physician's recommendation to separate from work. Claimant's supervisor, Jason Kline, provided Claimant with a form entitled "Notice of Intent to Retire/Resign". See Exhibit A. Claimant filled out the form indicating his intent was to resign effective March 3, 2020 for medical reasons. Claimant signed and dated the form March 3, 2020. Claimant did not refuse to sign the form.

Claimant was still undergoing treatment and had not been released by his physician to work at the time of hearing. Claimant anticipated he may be released by his physician back to work in July 2020.

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.

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).

In this case claimant tendered his verbal resignation to Jason Kline and then his written resignation. See Exhibit A. Claimant contends that he separated from his employment due to illness.

It is clear that claimant approached Jason Kline first and tendered his verbal resignation and voluntarily submitted his written resignation on March 3, 2020. While claimant states that he felt compelled to quit because of his physician's advice and his medical treatment, this is not a reason attributable to the employer. "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 quit is not attributable to the employer if caused by illness not connected to the employment. *Wolf's v. IESC*, 244 Iowa 999, 59 N.W.2d 216 (1953).

Claimant's medical diagnosis is the reason claimant voluntarily quit. As such, this case must be analyzed as a voluntary quit case and not a discharge case. Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

Iowa Admin. Code r. 871-24.25(37) 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 § 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 § 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:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

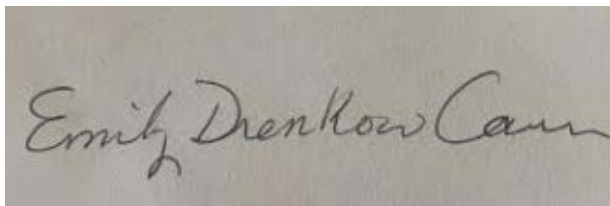
Claimant tendered a verbal and written notice of intent to resign which was accepted effective March 3, 2020 by the employer. Claimant testified that he was not forced or pressured to tender his resignation by his employer.

While claimant's leaving the employment 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 must be denied.

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>.

DECISION:

The May 15, 2020, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits shall be withheld in regards to this employer until such time as claimant is deemed eligible.

A photograph of a handwritten signature in cursive script that reads "Emily Drenkow Carr". The signature is written in dark ink on a light-colored, slightly textured paper.

Emily Drenkow Carr
Administrative Law Judge

June 18, 2020
Decision Dated and Mailed

ed/scn