

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**TAKAYSHA JOHNSON**  
Claimant

**APPEAL 21A-UI-16468-S2-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SH HOME CARE SERVICES LLC**  
Employer

**OC: 05/02/21  
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 July 22, 2021, (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 scheduled for September 17, 2021. Claimant requested postponement due to a work meeting. After due notice, a hearing was scheduled for September 28, 2021. However, due to agency phone issues, the hearing was postponed. The parties were properly notified of the new hearing date. A telephone hearing was held on October 18, 2021. Claimant Takaysha Johnson participated and testified. Employer SH Home Care Services participated through Kristin Woodland.

**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 caregiver from August 24, 2020, until January 2, 2021, when she separated from employment.

Claimant's last day on the job was January 2, 2021. Claimant suffered a work-related foot injury and was removed from work by her medical provider. On February 5, 2021, claimant was released back to work with restrictions. Employer did not have any sedentary positions available at that time. On April 1, 2021, employer scheduler Juan Soto made contact with claimant by telephone. He asked claimant whether she would be returning to work or if he should deactivate her. Claimant informed Soto she had not been released to return to work. Claimant believed her only option available was to be deactivated since she could not yet return to work. Claimant believed she would remain employed with employer while on deactivated status, and intended to return to work once released to do so by her medical provider.

Employer considered claimant to have voluntarily quit her employment effective April 1, 2021 when she did not return to work.

## REASONING AND CONCLUSIONS OF LAW:

As an initial matter, claimant did not quit her employment, but was discharged. For the reasons that follow, the administrative law judge concludes claimant she was discharged from employment for no disqualifying reason. Benefits are allowed.

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.

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).

Here, claimant did not intend to terminate the employment relationship. Claimant suffered a work-related injury that employer could not accommodate. Claimant intended to return to work upon being released to do so by her medical provider. Because claimant did not intend to quit, the separation was a discharge, the burden of proof falls to the employer, and the issue of misconduct is examined.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:
  - a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

- a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional

and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Department of Job Service*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). Misconduct must be "substantial" to warrant a denial of job insurance benefits. *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984).

In an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy, but if it fails to meet its burden of proof to establish job related misconduct as the reason for the separation, it incurs potential liability for unemployment insurance benefits related to that separation. A determination as to whether an employee's act is misconduct does not rest solely on the interpretation or application of the employer's policy or rule. A violation is not necessarily disqualifying misconduct even if the employer was fully within its rights to impose discipline up to or including discharge for the incident under its policy.

Claimant's separation was not disciplinary in nature. There is no allegation that claimant engaged in misconduct such that she would be disqualified from receiving unemployment benefits. Benefits are allowed.

**DECISION:**

The July 22, 2021, (reference 01) unemployment insurance decision is reversed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided she is otherwise eligible

A handwritten signature in cursive script, reading "Stephanie Adkisson", written in dark ink on a light-colored background.

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Stephanie Adkisson  
Administrative Law Judge  
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October 29, 2021  
Decision Dated and Mailed

sa/scn