

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DAWN KETCHAM

Claimant

VA CENTRAL IA HEALTHCARE

Employer

APPEAL 22A-UI-09116-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/13/22

Claimant: Respondent (2)

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

Iowa Code § 96.5(1) – Voluntary Quit

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

Iowa Admin. Code r. 871-24.10 – Employer Participation in Fact-Finding Interview

STATEMENT OF THE CASE:

VA Central IA Healthcare, the employer/appellant, filed an appeal from the April 6, 2022, (reference 03) unemployment insurance decision that allowed benefits. The parties were properly notified of the hearing. A telephone hearing was held on May 23, 2022. The employer participated through Jenny Redding, human resources specialist. Ms. Ketcham did not participate in the hearing. The administrative law judge took official notice of the administrative record.

ISSUE:

Did the employer discharge Ms. Ketcham from employment for disqualifying job-related misconduct, or did Ms. Ketcham voluntarily quit without good cause attributable to the employer?

Was Ms. Ketcham overpaid benefits?

If so, should she repay the benefits?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Ketchum began working for the employer on November 7, 2021. She worked as a full-time health technician. Her employment ended on November 30, 2021.

On November 30, Ms. Ketchum texted her supervisor that November 30 was her last day of work. Ms. Ketchum was still in the probationary period of hire, and she did not provide a reason for her leaving employment. Ms. Ketchum's last day of work was November 30.

Ms. Ketchum has received \$0.00 in REGULAR unemployment insurance (UI) benefits on her claim. The employer participated in the fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Ketchum'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(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 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:

(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.

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 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).

In this case, Ms. Ketchum resigned, and the employer accepted her resignation. Ms. Ketchum did not participate in the hearing to provide details about the resignation. Benefits are denied.

Since Ms. Ketchum has not received any UI benefits on her claim, she has not been overpaid.

DECISION:

The April 6, 2022, (reference 03) unemployment insurance decision is REVERSED. Ms. Ketchum 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. Ms. Ketchum has not been overpaid UI benefits.



Daniel Zeno
Administrative Law Judge
Iowa Workforce Development
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

July 8, 2022
Decision Dated and Mailed

dz/kmj