

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

EVONNE R POSTMA JOHNSON
Claimant

HOPE HAVEN INC
Employer

APPEAL 18A-UI-08670-NM-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 07/15/18
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 8, 2018, (reference 02) 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 September 6, 2018. Claimant participated and testified. Employer participated through Human Resource Manager Arlice Kraai and supervisor Trudy Weber. Claimant's Exhibits A through D and employer's Exhibit 1 were received into evidence.

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 began working for employer on July 12, 2016. Claimant last worked as a part-time direct care provider. Claimant was separated from employment on November 30, 2017, when she voluntarily resigned.

On November 10, 2017, claimant submitted her written resignation to her supervisor, Dee Van Dyke. (Exhibit 1). The letter indicated claimant was resigning to pursue another career, which was taking more of her time and energy. Claimant testified she was also working as an independent insurance agent at the time of her resignation. (Exhibit C). The resignation was effective November 30, 2017, which was the last date claimant worked. Had claimant not resigned, work would have continued to be available to her. Claimant testified the reason given in her resignation was not the true reason she was resigning. According to claimant she resigned due to an intolerable work environment. Claimant testified there was an issue in September 2016 when she was wrongly suspended and ongoing issues with residents were she felt unsupported by her supervisor. Claimant was also of the opinion that the employer failed to give her credit for a positive idea she had recently presented.

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:

(19) The claimant left to enter self-employment.

...

(21) The claimant left because of dissatisfaction with the work environment.

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).

In this case there is a dispute as to whether claimant resigned to enter self-employment or due to her work environment. Claimant had been exposed to the same work environment throughout her entire employment, but did not decide to resign until her work as an independent contractor began to pick up. This indicates the true reason for claimant resigning was to pursue her work as an independent contractor. To the extent that claimant did resign due to the work environment, she has not shown it was such that the average person would find it to be intolerable. 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 August 8, 2018, (reference 02) 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.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/rvs