

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRITTNEY M OLSON
Claimant

HY VEE INC
Employer

APPEAL 21A-UI-13318-AR-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/04/21
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

On May 31, 2021, the claimant, Brittney M. Olson, filed an appeal from the May 26, 2021, (reference 01) unemployment insurance decision that denied benefits based on the determination that claimant quit employment with the employer, Hy-Vee, Inc., without good cause attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on August 11, 2021. Claimant participated personally. The employer participated through its hearing representative, Barbara Buss, with witnesses Gary Jensen, Rae Olerich, and Carly Pedelty.

ISSUE:

Did the claimant quit employment without good cause attributable to the employer, or 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: The claimant was employed part-time as a C-Store clerk beginning on October 11, 2020, and was separated from employment on March 8, 2021, when she was separated due to job abandonment.

On March 8, 2021, claimant became ill at work. She called her supervisor, Olerich, and told her that she needed to leave. Olerich asked that claimant call the main store to see if she could get someone else to come help at the C-Store. Claimant did so, then left work.

The following day, Olerich asked claimant to come in to talk about her employment. Olerich had concerns about claimant's attendance and her adherence to the employer's policy regarding providing notice of absences. Olerich told claimant she had taken her off the schedule, but she meant she had done so until claimant came in to speak with her. Claimant interpreted this as a termination and never followed up to speak with Olerich. When claimant never returned to speak with Olerich or for future shifts, the employer determined she had abandoned her job and terminated her employment. Had claimant come in to speak with Olerich, the employer did not

intend on involuntarily terminating claimant's employment. It would have offered her continuing work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was not discharged but voluntarily left the employment without good cause attributable to employer.

Iowa Code § 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.

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 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) (amended 1998). Generally, when an individual mistakenly believes they are discharged from employment, but was not told so by the employer, and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer. *LaGrange v. Iowa Dep't of Job Serv.*, No. 4-209/83-1081 (Iowa Ct. App. filed June 26, 1984).

Since claimant did not follow up with management personnel or the owner, and her assumption of having been fired was erroneous, the failure to continue reporting to work was an abandonment of the job. Benefits are denied.

DECISION:

The May 26, 2021, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the employment without good cause attributable to 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.



Alexis D. Rowe
Administrative Law Judge

August 23, 2021
Decision Dated and Mailed

ar/kmj