

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CYNTHIA R JOHNSON
Claimant

APPEAL 21A-UI-24343-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION

THE VIEWS OPERATOR A, LLC
Employer

OC: 09/19/21
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Claimant filed an appeal from the October 21, 2021 (reference 01) unemployment insurance decision that denied benefits finding that claimant voluntarily quit her employment with The Views Operator A, LLC on August 27, 2021. The parties were properly notified of the hearing. A telephone hearing was held on December 29, 2021. Claimant participated. Employer participated through Mary McDaniels, Executive Director and Director of Nursing, and Lynn Johnson, Regional Operations Manager. Claimant's Exhibits A – C were admitted.

ISSUE:

Whether claimant's separation was a voluntary quit without good cause attributable to employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant began her employment as a full-time Assistant Director of Nursing for The Views Operator A on January 5, 2020. Claimant transferred to a full-time Director of Nursing position on November 8, 2020 and worked in that capacity until her employment ended on August 27, 2021.

When claimant began her employment in 2020, the parties agreed that claimant would return to school to obtain her Registered Nurse degree and that employer would schedule claimant's work to accommodate her class schedule. The degree was not a requirement of claimant's employment. There was no formal agreement between the parties. Employer asked claimant to provide 30-days' notice of her class schedule so employer could schedule staff accordingly.

In January 2021, claimant was accepted into school and was put on a waiting list. In July 2021, claimant learned a seat was available for her to begin school the Fall 2021 semester. On August 23, 2021, claimant met with employer to review her class schedule. Classes were to begin on August 29, 2021. Employer could not schedule claimant's work to accommodate her school schedule with a week's notice. On August 27, 2021, claimant resigned with 30 days' notice. Employer told claimant that she would have to work that notice period at her current work schedule. Claimant could not do that because it interfered with her class schedule, which

she was beginning August 29, 2021. On August 28, 2021, claimant returned her work keys to employer.

Employer had continuing work available for claimant. Claimant's job was not in jeopardy.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit without good cause attributable to employer. Benefits are denied.

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, 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).

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).

The standard of what a reasonable person would have believed under the circumstances is applied in determining whether a claimant left work voluntarily with good cause attributable to the employer. *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993).

Iowa Admin. Code r. 871-24.26(1) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

Iowa Admin. Code r. 871-24.25(26) 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:

(26) The claimant left to go to school.

Here, employer did not willfully breach the parties' agreement to accommodate claimant's class schedule. Employer told claimant that it needed 30 days' notice of her class schedule. Claimant did not provide the required notice. Therefore, employer could not accommodate claimant. Instead of continuing her employment, claimant resigned to attend school. This does not constitute good cause attributable to employer. Benefits are denied.

DECISION:

The October 21, 2021 (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit without good cause attributable to employer. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.



Adrienne C. Williamson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

January 27, 2022
Decision Dated and Mailed

acw/ACW