

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JODI A HATFIELD
Claimant

OPTIMAE LIFESERVICES INC
Employer

APPEAL 17A-UI-13300-LJ-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 11/12/17
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 12, 2017, (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit employment for personal reasons. The parties were properly notified of the hearing. A telephone hearing was held on January 18, 2018. The claimant, Jodi A. Hatfield, participated. The employer, Optimae Lifeservices, Inc., participated through Melissa Scarce, Program Director; and Idah Newquist, Director of Human Resources.

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, most recently as a direct service professional, from March 13, 2017, until December 1, 2017, when she quit. On November 15, claimant was dealing with a suicidal individual in her care. Claimant instructed this individual to call the police and have them take her to the hospital. The employer maintains that claimant should have, and did not, contact the on-call person and ask this employee to take the individual to the hospital. The following day, claimant was taken off the schedule. Claimant's supervisor, Michelle, reached out to claimant via text message and telephone call to let her know that she needed to work with the employer to develop a schedule for some additional training. The employer intended to have claimant go through retraining and shadowing to build up her confidence and competence before allowing her to return to working on her own. Claimant never responded to Michelle. On November 27, claimant spoke with Lindsey, the employee who supervises the Adel area. Claimant asked why she was taken off the schedule, and Lindsey explained and told claimant the employer wanted to work with her to get her back to work. Claimant became emotional, said she was done, and left. She returned on December 1 and formally quit her employment. Continued work was available, had claimant not quit her employment. Claimant had been taken off the schedule on two prior occasions, both by her own request.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation was without good cause attributable to the employer. Benefits are withheld.

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.

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: ...

(27) The claimant left rather than perform the assigned work as instructed.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.* After assessing the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge finds the employer's testimony more credible than claimant's testimony.

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). Here, the average employee in claimant's situation would not have felt similarly compelled to end her employment under these circumstances. 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). Claimant never responded to her supervisor about scheduling times for

retraining, and she ultimately told the employer she was quitting. Claimant's separation from employment was without good cause attributable to the employer. Benefits are withheld.

DECISION:

The December 12, 2017, (reference 01) unemployment insurance decision is affirmed. Claimant separated from 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.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn