

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LEVONNE A WHITE
Claimant

CROMA LLC
Employer

APPEAL 21A-UI-12586-ML-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/14/21
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the May 14, 2021, (reference 01) unemployment insurance decision that denied benefits based upon her voluntarily quitting work without good cause attributable to the employer. The parties were properly notified of the hearing. A telephone hearing was held on July 14, 2021. The claimant, Levonne White, participated personally. The employer participated through Julie Rouse.

Employer's Exhibits A, B, and C were offered and received into the evidentiary record.

ISSUES:

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 part-time as a cosmetologist. She began working for the employer on April 1, 2014, and last worked for the employer on August 5, 2020. The employer considered her date of separation to be August 5, 2020. Vonnie Wagner was claimant's immediate supervisor.

On August 10, 2020, a derecho moved through Iowa causing widespread wind damage. Claimant's home sustained significant damage in the storm. Claimant testified that power was not restored in her home until approximately August 16, or August 17, 2020. On or about August 17, 2020, claimant texted and called Scott Rouse to let him know about the damage that had been done to her house and to request time off. Claimant also sent a group chat text message to her co-workers, letting them know that she planned on taking two to three months off to deal with the damage.

On August 18, 2020, Mr. Rouse texted claimant back,

Sorry I missed your call last night. I've got you marked off the books. At some point you need to come in and sign some papers. If you take off the 2 months. You'll need to terminate employment and rehire. Just what we are doing with Mallory and Mariam.

(Exhibit A)

Ms. White did not come into the salon to fill out the aforementioned leave of absence paperwork. She did not have any additional contact with the employer about returning to work. Ms. White testified that she has not returned to work and has not been able to return to work since the derecho on August 10, 2020, due to ongoing personal and health issues. Ms. White came to the realization that she would not be able to return to work for the employer sometime in October, 2020. She did not update her employer on her personal issues, or notify the employer of her inability to work due to illness at any point in time.

There was continuing work available to claimant had she not abandoned her position.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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 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). Where a claimant walked off the job without permission before the end of his shift saying he wanted a meeting with management the next day, the Iowa Court of Appeals ruled this was not a voluntary quit because the claimant's expressed desire to meet with management was evidence that he wished to maintain the employment relationship. Such cases must be analyzed as a discharge from employment. *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

In this case, claimant had an intention to quit and carried out that intention by failing to present to work to fill out the requested paperwork and by failing to call back in to the employer to discuss a return to work or to update the employer on her leave of absence. Essentially, she declined or refused to return to work at any time after August 18, 2020. As such, claimant abandoned her job and voluntarily quit.

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).

Iowa Admin. Code r. 871-24.25(27) 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 § 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 § 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:

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

Claimant voluntarily quit her employment due to valid concerns she had about the damage done to her home by the derecho that passed through Iowa on August 10, 2020. The employer allowed claimant to take time off for the same; however, claimant was told that if her leave of absence was going to last two to three months, her employment status would be terminated and she would have to reapply at a later date. Claimant did not fill out the requested paperwork or keep in contact with the employer after August 17, 2020. While claimant had good personal reasons for quitting her job, those reasons are not attributable to the employer. Claimant has not met her burden of proving good cause attributable to employer. Benefits are denied.

DECISION:

The May 14, 2021, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left employment without good cause attributable to the employer. Benefits are denied. The date of separation will remain August 5, 2020, as claimant did not make an attempt to return to work at any point in time thereafter.



Michael J. Lunn
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July 30, 2021
Decision Dated and Mailed

mjl/lj