

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DEVONTEZ D ROBERTS
Claimant

CARE AMBULANCE LLC
Employer

APPEAL 21A-UI-20525-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 07/11/21
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

On September 15, 2021, Devontez Roberts (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated September 13, 2021 (reference 01) that disqualified claimant from unemployment insurance benefits based on a finding he voluntarily quit without good cause attributable to employer.

A hearing was initially set for November 5, 2021. At that time it was determined the parties had not received the other party's proposed exhibits. Claimant had also requested subpoenas for numerous witnesses. Given these issues, the administrative law judge used that hearing time for a prehearing conference and instructed the parties to number and properly resubmit all proposed exhibits. He instructed claimant to submit subpoena requests for witnesses he wished to be ordered to appear.

A telephone hearing was held on December 2, 2021. The parties were properly notified of the hearing. The claimant participated personally. Care Ambulance, LLC (employer/respondent) participated by HR Manager Shelby Garcia-Patton. Director of Operations Jesse Husmann participated as a witness for employer. Owner Bob Libby observed the hearing.

Employer's Exhibits 1-49 were admitted. Claimant's Exhibits 1 and 2-20 were admitted. Official notice was taken of the administrative record.

Claimant continued to send proposed exhibits to the Appeals Bureau during and after the hearing. Those were not admitted into evidence. Claimant did not resubmit subpoena requests as he determined he did not wish for any witnesses to appear.

ISSUE(S):

- I. Was the separation from employment a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

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

Claimant began working for employer in January 2017. Claimant was hired as a full-time driver and became a full-time EMT in 2018. Claimant's immediate supervisor most recently was Christopher Lauderdale. The last day claimant worked on the job was July 6, 2021. Claimant informed Lauderdale of his resignation and sent a resignation letter to Garcia-Patton on that date, with the resignation effective immediately.

In his resignation letter, claimant made vague accusations of a "hostile work environment, including volatile environment, including unfair practices, treatments, including extra work assignments and unfair pay/wage practice..." Garcia-Patton contacted claimant almost immediately after receiving the resignation letter. She expressed concern about the allegations and indicated she was unaware of them. She asked to conduct an exit interview with him so she could learn more about the reasons for his resignation. Claimant declined to speak with Garcia-Patton about the allegations he raised in the resignation letter.

The final incident leading to resignation occurred that same day. Claimant believed he should have been paid a night differential for shifts recently worked. However, those shifts were not eligible for the night differential. Employer's policies regarding night differential pay had not recently changed and claimant was aware of those policies. However, he disagreed with the policies.

Claimant had previously raised concerns about staffing in the Waterloo area he worked in. However, he had not indicated he would have to resign if those were not addressed, that they constituted a safety issue, or anything similar. In a May 25, 2021 email to Garcia-Patton and others he indicated he was concerned about staffing there because it may result in fewer runs being made and thus less money for him. However, there was no shortage of work for claimant. Neither was claimant being forced to work extra shifts due to the staffing issues. He in fact often picked up extra shifts voluntarily.

Claimant did not raise with Garcia-Patton any of the other concerns listed in the resignation letter prior to resigning. Claimant knew Garcia-Patton was the HR Manager and had brought concerns to her in the past regarding pay or scheduling which she had always addressed. He also knew how to contact employer's owners with any concerns but he did not raise the issues in the resignation letter with them, either. Claimant had never been disciplined and his job was in good standing at the time of resignation.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated September 13, 2021 (reference 01) that disqualified claimant from unemployment insurance benefits based on a finding he voluntarily quit without good cause attributable to employer is AFFIRMED.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 in relevant part:

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:

(13) The claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.

(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). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). 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).

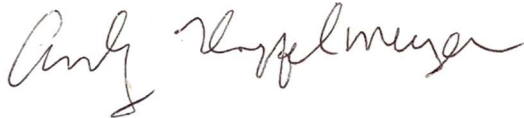
Employer has carried its burden of proving claimant's departure from employment was voluntary. However, claimant has not carried his burden of proving the voluntary leaving was for good cause attributable to employer. The administrative law judge finds claimant resigned due to general dissatisfaction with the work environment and the rate of pay, despite being aware of the rate of pay when hired. Resigning for these reasons is presumed to be without good cause attributable to employer and the administrative law judge finds they were without good cause attributable to employer in this instance.

The other vague allegations claimant raised in his resignation letter are largely unsupported by the record. Furthermore, he did not notify employer of these reasons, notify employer that he would have to resign if they were not corrected, and give employer a chance to correct them prior to resigning. He in fact declined to address them with Garcia-Patton when she offered to do so after she learned of them. A reasonable person would not find the working conditions so

intolerable or detrimental as to justify resignation without notice or opportunity for correction prior to doing so.

DECISION:

The decision dated September 13, 2021 (reference 01) that disqualified claimant from unemployment insurance benefits based on a finding he voluntarily quit without good cause attributable to employer is **AFFIRMED**.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

January 7, 2022
Decision Dated and Mailed

abd/kmj

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.