

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RYAN KANGAIL
Claimant

APPEAL 24A-UI-01605-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SHELTER HOUSE COMMUNITY SHELTER
Employer

**OC: 01/07/23
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit
Iowa Admin. Code r. 871-24.26(4) – Intolerable working conditions

STATEMENT OF THE CASE:

The claimant, Ryan Kangail, filed an appeal from the January 31, 2024, (reference 01) unemployment insurance decision that denied benefits based upon his voluntary resignation. The parties were properly notified about the hearing. A telephone hearing was held on March 4, 2024.

The claimant testified. The claimant was represented by Emma Shimanovsky, attorney-at-law. The employer, Shelter House Community Shelter, participated through Financial Director Steve Boyd and Housing Director Erin Sullivan. The employer was represented by Laura Folkerts, attorney-at-law. Exhibits 1, 2, 3, 4, A, and B were received into the record.

ISSUE:

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

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

The claimant was employed full-time as a permanent supportive housing lead coordinator from October 3, 2022, and was separated from employment on January 5, 2024, when he quit. The claimant reported directly to the manager on-site.

The employer houses chronically homeless individuals in several different complexes. Many have physical and mental disabilities, including substance abuse disorders. Just as with other multi-story housing complexes the clients have their own rooms that are entered by staff only upon inspection. The employer has to follow housing law procedures before evicting any client from the grounds.

The employer has a no violence policy. It relies on its staff to de-escalate as much as possible. It emphasizes that if staff believes the situation is not safe then they can call the police who will

proactively manage the situation. They can also call the manager on-site. Nevertheless, the permanent supportive housing lead coordinator job description states that a key responsibility is to “intervene and appropriately de-escalate crisis situations.” Day-to-day occurrences are added by staff on a log that is reviewed by Ms. Sullivan.

The employer has a nurse practitioner that manages medications. This nurse practitioner supervises students one day each week. There is also a psychiatrist on staff. Medications are stored behind the front desk. Though the storage containers have changed, the medications are stored securely. The permanent supportive housing lead coordinator uses these staff resources in interactions with clients regarding their medications.

In the summer of 2023, an intoxicated client intrusively asked the claimant about his sex life and inquired into his sexual orientation. The claimant did not feel comfortable talking about his sex life in a public space. He used his de-escalation techniques and removed himself from the situation.

In August 2023, the claimant was standing near a door and a client pushed him out of the way to exit. He was not injured by this rude behavior. The claimant relayed this incident to his immediate supervisor. His supervisor told him to avoid standing in front of the exits. The supervisor separately spoke with the client about the incident.

On December 5, 2023, the claimant raised several concerns about the work environment with Ms. Sullivan for a second time. The claimant framed these concerns as the proposal of a pay increase.

On December 7, 2023, Ms. Sullivan met with the claimant about his proposal for a pay increase. They spoke about his concerns. His pay did not change after this meeting. Ms. Sullivan believed the issues were solved by talking about the employer’s existing procedures.

On January 1, 2024, the claimant slid his resignation notice under Ms. Sullivan’s office door. The resignation notice stated that his last day would be January 14, 2024.

In his final days working there, a client leapt on the front desk and quoted a noir dystopian comic book movie in a strange way that shocked him. The claimant worked through his de-escalation techniques by telling the client to stop. Then to comply. The claimant then told the client, “This is not funny to me.” After noticing no change in behavior, the claimant retreated to the back room, until the client stopped.

On January 5, 2024, Ms. Sullivan returned to her office and accepted the claimant’s resignation effective that same date, as was the employer’s regular practice regarding resignation.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes claimant’s separation from the employment was without good cause attributable to the employer. Benefits are denied.

The decision in this case rests, at least in part, on the credibility of the witnesses. 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, reviewing the exhibits submitted by the parties, considering the applicable factors listed above, and using his own common sense and experience, the administrative law judge finds the employer's version of events to be more credible than the claimant's recollection of those events.

The administrative law judge does not find the claimant's allegations regarding medication management credible. He made no mention of professional staff being on the premises in his testimony. It is acknowledged they were only there for one day out of the week, but this fact makes his allegation that he was asked to dispense medication without direction implausible.

The administrative law judge also finds the claimant's allegation that he regularly had to enter and clean up heavily soiled rooms not credible. As the employer established, the claimant rarely had to even see inside of tenant rooms as part of an interaction with the tenant, an inspection, or a request to fix something in the apartment.

The administrative law judge also finds the claimant's allegation that he regularly complained about various things to his immediate supervisor not credible. He makes this finding because the claimant never gave a specific date for any internal complaint. In his description of specific incidents, he never came around to speaking about complaints in conjunction with those specific events. When Ms. Sullivan alleged that the claimant made two complaints to her that were tied to pay, he offered no rebuttal testimony in response. Ms. Sullivan provided credible testimony that the employer took proactive steps to remedy the situation regarding the one specific complaint he could describe that was brought to his immediate supervisor.

Iowa Code section 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:

- (21) The claimant left because of dissatisfaction with the work environment.

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

Iowa Admin. Code r. 871-24.26(2) and (4) provide:

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:

(2) The claimant left due to unsafe working conditions.

(4) The claimant left due to intolerable or detrimental working conditions.

The 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). 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).

In this case, it is clear the claimant had the intent to quit because he tendered his resignation. The administrative law judge finds the claimant has not met his burden.

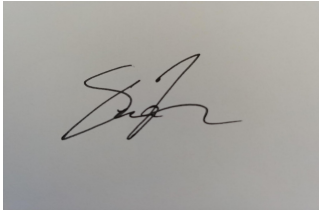
The claimant cannot meet his burden that he quit for intolerable circumstances under It is acknowledged that the claimant had tense interactions with clients. The last of these occurred after he had already resigned and so it cannot be used to support his contention he resigned due to intolerable or unsafe working conditions under Iowa Admin. Code r. 871-24.26 (2) and (4).

Even if it could be, the claimant went through the de-escalation techniques and when those did not work, then he removed himself from the situation. As to the other two incidents, the claimant could have called the police or the on-site manager, if he believed he was unsafe. Regarding the incident in which he was pushed, the employer took proactive steps to address the situation with the claimant and the client. Ultimately, the administrative law judge finds these incidents, to an extent, were part of the claimant's explicit responsibilities on his job description. As a result, the claimant quit due to his "dissatisfaction with the work environment" which is disqualifying under Iowa Admin. Code r. 871-24.25(21). The administrative law judge does not condone what occurred, but ultimately this working environment is similar to that of a prison in that the employer has more limited means of controlling one off incidents from its unique clientele. The claimant did not prove the employer failed to use those limited means of controlling clients when it was required. He also did not leave shortly after any one of these events. Finally, the administrative law judge finds it persuasive that the employer was able to use police as the final means of ending an incident fairly easily. With this context in mind, I find the claimant's quitting was not reasonable.

While claimant's leaving may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law.

DECISION:

The January 31, 2024, (reference 01) unemployment insurance decision is AFFIRMED. The claimant resigned effective January 14, 2024. His resignation is not attributable to the employer. The employer terminated his employment on January 5, 2024. Benefits are granted from January 7, 2024 until January 13, 2024, provided he is otherwise eligible. Benefits are denied after that date.

A rectangular box containing a handwritten signature in black ink. The signature is cursive and appears to read 'Sean M. Nelson'.

Sean M. Nelson
Administrative Law Judge II

March 11, 2024
Decision Dated and Mailed

SMN/jkb

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.