

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**DAWN D RASMUSSEN**

Claimant

**APPEAL 20A-UI-01154-CL**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SPENCER COMMUNITY SCHOOL DISTRICT**

Employer

**OC: 01/05/20**

**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

On February 10, 2020, the claimant filed an appeal from the February 3, 2020, (reference 02) unemployment insurance decision that denied benefits based on a separation from employment. The parties were properly notified about the hearing. A hearing was held in Spencer, Iowa, on March 6, 2020. Claimant participated personally and Paul Fredrickson observed. Employer participated through superintendent Terry Hemann, payroll/human resource representative Ronda Mortenson, and transportation director Julie Nemmers. Claimant's Exhibits A through C were received. Employer's Exhibits 1 and 2 were received.

**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 began working for employer August 18, 2011. Claimant last worked as a part-time bus monitor. Claimant was separated from employment on December 19, 2019, when she resigned.

Claimant was diagnosed with mental health issues long ago. Claimant also has several issues with her physical health.

In September 2019, claimant spoke with bus barn supervisor Dave Hanson about her plan to resign as an employee, begin collecting IPERS, and then returning to employer to work as a substitute bus monitor. Transportation director Julie Nemmers told claimant all she had to do was put her request in writing.

Claimant was absent from work from September 19, 2019, until the last week of October 2019, because she had surgery for a non-work related medical condition. Claimant had no issue getting the time off of work.

Claimant never requested time off for her mental health in fall 2019.

On November 14, 2019, claimant's home health nurse asked the police department to perform a welfare check. Claimant was having visions and there were concerns for her safety. The police department performed the welfare check. Claimant called employer and said she was not fit to come to work.

On November 14, 2019, a police officer called transportation director Nemmers and stated the police had performed a welfare check on claimant and that she had been threatening herself and others. The police officer was aware claimant worked for employer and wanted employer to be aware of the situation.

Claimant did not return to work thereafter.

On November 21, 2019, employer had a meeting with claimant. Superintendent Terry Hemann, human resource employee Ronda Mortenson, and transportation director Nemmers were present. Employer gave claimant a November 15, 2019, letter stating claimant was not allowed to return to work until she received clearance from a mental health professional. Employer did not tell claimant she was going to be terminated or that she had to resign. However, claimant stated that she was going to resign so she could receive IPERS and take some time off to take care of herself. No medical professional had advised claimant to resign and claimant had not requested any accommodations from employer prior to resigning. Claimant discussed her intention to return to employer as a substitute bus monitor after she began receiving IPERS. Employer stated she could apply to do so, but the position was not guaranteed and she would still need to bring a note from a mental health professional clearing her to return to work before she would be able to work for employer again.

Claimant wrote a November 21, 2019, resignation letter resigning effective immediately.

Later that day, claimant called human resource employee Mortenson and asked if she could change her last date of employment to December 19, 2019, so employer could pay out her sick leave during that time period. Employer allowed her to do so and claimant submitted a new resignation letter dated November 22, 2019.

Claimant was considered separated from employment effective December 19, 2019.

Claimant left several voice messages for employer in late December 2019 about returning to employer as a substitute bus monitor.

On January 2, 2020, claimant came into employer's office with a note clearing her to return to work. Claimant was very upset and loud. Superintendent Hemann asked claimant to calm down several times before asking her to leave and informing her she was not eligible for rehire.

#### **REASONING AND CONCLUSIONS OF LAW:**

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

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(24) 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:

(24) The claimant left employment to accept retirement when such claimant could have continued working.

Iowa Code section 96.5(1)d 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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

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).

In this case, claimant resigned so she could retire and receive IPERS and take care of medical conditions. Claimant did not resign upon the advice of a medical professional and has not returned to employer seeking employment in the same capacity in which she previously worked. As noted in the law cited above, claimant did not resign for reasons that are considered with good cause attributable to employer.

To the extent claimant asserts she resigned because of employer's request for clearance from a mental health professional, employer's request was within its rights under the law and was reasonable under the circumstances.

The administrative law judge understands claimant is upset with employer's decision not to hire her in a substitute capacity after her separation from employment. However, employer's decision not to hire claimant as a substitute has no bearing on whether her separation from employment on December 19, 2019, disqualifies her from receiving unemployment insurance benefits.

In summary, claimant may have resigned for very good personal reasons, but she did not establish she resigned for a good cause reason that can be attributed to employer.

**DECISION:**

The February 3, 2020, (reference 02) unemployment insurance decision is affirmed. Claimant voluntarily left the 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.



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

March 9, 2020  
Decision Dated and Mailed

cal/scn