

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KODJO AYISSOU

Claimant

APPEAL 21A-UI-18336-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

REACH FOR YOUR POTENTIAL INC

Employer

OC: 10/18/20

Claimant: Appellant (1)

Iowa Code section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant, Kodjo Ayissou, filed an appeal from the August 10, 2021, (reference 03) unemployment insurance decision that denied benefits based upon based on the conclusion he was discharged due to excessive absenteeism. The parties were properly notified of the hearing. A telephone hearing was held on October 12, 2021. The claimant participated. The employer participated through Human Resources Director Bobbi Chipman. Exhibit A was received into the record.

ISSUE:

Whether the claimant's separation is disqualifying?

FINDINGS OF FACT:

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

The claimant was employed part-time as a direct support professional from July 13, 2017, until this employment ended on December 22, 2020, when he was terminated. The claimant's immediate supervisor was Achele Jones.

The employer has an attendance policy. The attendance policy states that an employee must cover all shifts that they are currently scheduled to work. An employee is supposed to reach out to the scheduler, if they do not think they will be able to work one of their shifts. The attendance policy has three stages of discipline issued after each absence not previously excused: (1) verbal warning, (2) written warning, and (3) termination.

The employer also has a leave of absence policy. The leave of absence policy states an employee will not be granted two leave of absences in a two month timeframe.

The claimant was on a medical leave of absence from September 22, 2020 until November 6, 2020.

On November 6, 2020, the claimant requested a leave of absence to visit his son in Togo, a country in West Africa.

On December 22, 2020, the claimant informed the scheduler, Patient Nduhirahe, and Ms. Jones that he had not heard if his request for a leave of absence had been denied or granted. Nevertheless, the claimant said he had bought the plane ticket to fly to Togo on December 26, 2020 regardless if he was approved or not.

On December 25, 2020, the claimant worked his shift as scheduled.

On December 31, 2020, the claimant was scheduled to work from 10:00 p.m. to 6:00 a.m. The claimant did not arrive at work. He did not attempt to excuse his absence prior to the start of this shift.

On January 1, 2021, the claimant was scheduled to work from 6:00 a.m. to 9:00 a.m., 3:00 p.m. to 10:00 p.m., and 10:00 p.m. to 6:00 a.m. The claimant did not arrive at work. He did not attempt to excuse his absence prior to the start of this shift.

On January 2, 2021, the claimant was scheduled to work from 6:00 a.m. to 9:00 a.m. The claimant did not arrive at work. He did not attempt to excuse his absence prior to the start of this shift.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant quit without good cause attributable to his employer.

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 (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:

(25) The claimant left to take a vacation.

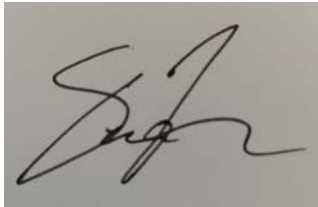
The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the

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).

The administrative law judge recognizes the claimant's contention that he intended to return to his position. However, the claimant left to go on vacation without approval and without providing a return to work date. These circumstances fall within Iowa Admin. Code r. 871-24.25(25). 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. Benefits are denied.

DECISION:

The August 10, 2021, (reference 03) unemployment insurance decision is affirmed. The claimant quit without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

A handwritten signature in black ink, appearing to read 'Sean M. Nelson', is written over a light gray rectangular background.

Sean M. Nelson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 725-9067

October 27, 2021_____
Decision Dated and Mailed

smn/scn