

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GENE L. SHULTZ
Claimant

FRIENDS OF FAITH RETIREMENT HOMES
Employer

**APPEAL 20A-07065-ED-T
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 05/24/20
Claimant: Appellant (1)**

Iowa Code Sec. 96.5(1) – Voluntary Quitting
Iowa Code Sec. 96.5(2)A – Discharged for Misconduct

STATEMENT OF THE CASE:

Claimant filed an appeal from the June 18, 2020 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on August 3, 2020 at 8:00 AM. Claimant, Gene L.Shultz, participated. Employer did not participate. Claimant's Exhibits 1 was admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant's separation was a voluntary quit without good cause attributable to employer.
Whether claimant was discharged for misconduct.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time maintenance worker beginning January 10, 2018 and ending May 22, 2020 when claimant voluntarily quit. Claimant's job was to take care of the maintenance in the various buildings of the retirement home. Claimant was typically assigned to work in a building called Landmark Commons. Landmark Commons was an independent living building where residents lived in their own apartments but could congregate in several common areas such as a dining room, a small coffee shop, a swimming pool and a recreation room. During the Covid-19 pandemic, the facility experienced an outbreak. All residents who tested positive were quarantined in a specific area of one building. The residents who tested positive for Covid-19 were not quarantined in the Landmark Commons building. Claimant did not typically work in the area where those who tested positive for Covid-19 were quarantined. However, sometimes claimant was required to be on-call. If there was a maintenance issue in the area where Covid-19 patients were quarantined when claimant was on-call, he would be required to enter those areas of the facility and feared being exposed to Covid-19. Claimant was 64 years old and claimant's wife was 62 years old. Claimant had no underlying health conditions that would make him more susceptible to contracting Covid-19. Claimant's wife had

heart disease and diabetes. Rather than risk being required to enter the quarantined area while on call, claimant chose to resign. Claimant submitted his written resignation on May 22, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit without good cause attributable to employer. Benefits are denied.

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). 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. 871-24.26(2), (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:

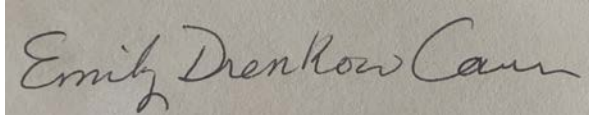
- (2) The claimant left due to unsafe working conditions.
- (4) The claimant left due to intolerable or detrimental working conditions.

Claimant voluntarily quit his employment due to valid concerns he had about his wife's health and potential exposure to Covid-19. While claimant had good personal reasons for quitting his job, those reasons are not attributable to the employer. Claimant could perform his job with the use of PPE. Claimant would be willing to return to work when Covid-19 is no longer an issue. Claimant has not established that the working conditions were unsafe, intolerable or detrimental. Claimant has not met his burden of proving good cause attributable to employer. Benefits are denied.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently 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 under the program. Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

DECISION:

The June 18, 2020 (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit without good cause attributable to employer. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

A rectangular box containing a handwritten signature in cursive script that reads "Emily Drenkow Carr".

Emily Drenkow Carr
Administrative Law Judge

August 7, 2020
Decision Dated and Mailed

ed/scn