

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**VICTORIA MORGAN**  
Claimant

**APPEAL 21A-UI-01162-SN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MILLENIUM REHAB AND CONSULTING**  
Employer

**OC: 09/06/20**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit  
Iowa Admin. Code r. 871-24.26(4) – Intolerable working conditions  
Iowa Admin. Code r. 871-24.26(2) – Unsafe working conditions

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the December 1, 2020, (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on February 16, 2021. Claimant participated and testified. Employer participated through Human Resources Assistant Dawn Hovick and Director of Human Resources Jennie Nalley.

**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 part-time as an office manager from June 16, 2018, until she was separated from employment on June 16, 2020, when she quit. The claimant's immediate supervisor at the clinic was Clinic Manager Tiffany Riedel. The claimant's supervisor regarding billing was Billing Supervisor Tammy Chapman.

The claimant lives with two minor children who have compromised immune systems.

In March 2020, the employer adopted screening procedures consistent with Centers for Disease Control (CDC) guidance at the time to prevent the spread of Covid19 infection. Employees were instructed to wear masks. There would have been times in which employees were required to use the same mask for as long as a week due to short supplies. Employees were directed to social distance as much as possible.

At an unknown point in time, the employer's clinic had a positive case. The claimant spoke with Ms. Riedel about her concern that staff and patients had not been instructed about the positive case, so they could take additional precautions.

At another point in time, the claimant spoke with Ms. Nalley regarding working from home due to her concerns with Covid19. Ms. Nalley told the claimant she could not work from home because her job duties would be difficult if not impossible to perform remotely.

On April 15, 2020, the employer modified its screening procedure regarding patients to require staff to check the patients temperature before their appointment. The employer ran out of ear pieces to cover the thermometer, but directed employer's to disinfect the thermometer with alcohol. Around that same time, the claimant was offered a face shield by email. The claimant turned it down because one of her coworkers had already given her a face shield.

On June 2, 2020, the claimant sent an email to Ms. Riedel and Ms. Chapman informing them of her resignation effective June 16, 2020. The employer provided a copy of the claimant's resignation notice. (Exhibit 1) The claimant expressed gratitude regarding Ms. Chapman's patience with the claimant's unfamiliarity with medical billing practices. She said she also appreciated the last two years she worked for the company.

#### **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:

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:

- (28) The claimant left after being reprimanded.

Iowa Admin. Code r. 871-24.26(4) provides:

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 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).

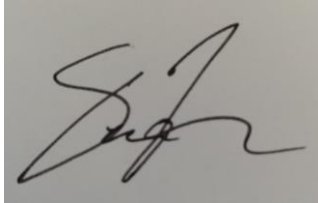
Individuals who leave their employment due to disparate treatment are considered to have left work due to intolerable or detrimental working conditions and their leaving is deemed to be for good cause attributable to the employer. The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Dep't of Job Serv.*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Emp't Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993).

While a claimant does not have to specifically indicate or announce an intention to quit if her concerns are not addressed by the employer, for a reason for a quit to be "attributable to the employer," a claimant faced with working conditions that she considers intolerable, unlawful or unsafe must normally take the reasonable step of notifying the employer about the unacceptable condition in order to give the employer reasonable opportunity to address his concerns. *Hy-Vee Inc. v. Employment Appeal Board*, 710 N.W.2d 1 (Iowa 2005); *Swanson v. Employment Appeal Board*, 554 N.W.2d 294 (Iowa 1996); *Cobb v. Employment Appeal Board*, 506 N.W.2d 445 (Iowa 1993). If the employer subsequently fails to take effective action to address or resolve the problem it then has made the cause for quitting "attributable to the employer."

The claimant contends she was forced to quit due to intolerable or unsafe working conditions. The record does not show a reasonable person would have left when faced with similar circumstances. While the claimant was certainly frustrated with the employer's response, it is uncontroverted it took reasonable steps to mitigate spread through mandating mask use, screening procedures and other precautions. The claimant's resignation itself shows the working conditions were not unsafe or intolerable because its effective date was two weeks after she submitted it. In other words, the claimant could tolerate the working conditions for an additional two weeks. Furthermore, the claimant conceded the working conditions were improving and not deteriorating at the time she resigned. 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 December 1, 2020, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left her 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.



---

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

February 26, 2021  
Decision Dated and Mailed

smn/mh

*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, 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>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.