

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LYNN ALEXANDER
Claimant

QPS EMPLOYMENT GROUP, INC.
Employer

APPEAL 20A-UI-07273-HP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Claimant Lynn Alexander filed an appeal from a June 25, 2020 (reference 01) unemployment insurance decision that denied benefits for voluntarily quitting his work with QPS Employment Group, Inc. ("QPS") on June 25, 2020. The parties were properly notified of the hearing. A telephone hearing was held on August 4, 2020. Alexander appeared and testified. Martin Carter testified on Alexander's behalf. No one appeared on behalf of QPS. Exhibit A was admitted into the record. I took administrative notice of the claimant's unemployment insurance benefits records maintained by Iowa Workforce Development.

ISSUE:

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

FINDINGS OF FACT:

Alexander has worked for QPS on several occasions since 2016. He commenced his most recent employment with QPS in January 2020, as a full-time laborer and driver. Alexander worked full-time in a warehouse and he picked up QPS employees for work and dropped off the QPS employees at the end of the day in a van supplied by QPS.

Alexander was ill and he had symptoms of either influenza or Covid-19. He contacted QPS and told QPS he was ill and QPS told him he should go to the doctor. Alexander went to Community Health Care, Inc. on March 27, 2020, and Ashlee Misaig, ARNP, examined him. Misaig restricted Alexander from working and released him to return to work on March 30, 2020, or when he was fever free for twenty-four hours. (Exhibit A)

Alexander sent a copy of Exhibit A to QPS via text message. Alexander was scheduled to work the second shift on March 30, 2020. He called the morning of March 30, 2020 and asked if he could return to work. QPS told Alexander he could not return to work until human resources cleared him to return to work. QPS told Alexander he could not drive the van until it was fully sterilized. QPS did not get back to Alexander.

On April 5, 2020, Alexander still had the van QPS had provided. He had not heard from human resources. Someone picked up the van from Alexander's apartment complex several weeks later.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides an individual "shall be disqualified for benefits, regardless of the source of the individual's wage credits: . . . If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department." The Iowa Supreme Court has held a "voluntary quit" means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer." *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989). A voluntary quit requires "an intention to terminate the employment relationship accompanied by an overt act carrying out the intent." *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). "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). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016).

871 Iowa Administrative Code 24.26(6)a 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:

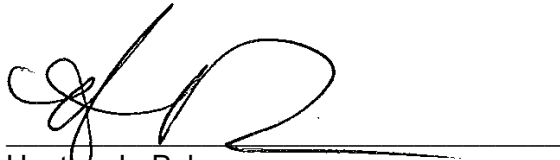
24.26(6) Separation because of illness, injury, or pregnancy.

a. Nonemployment related separation. The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.

Alexander denies he quit his employment with QPS. Alexander was absent from work due to symptoms of influenza or Covid-19 on March 27, 2020. He went to a medical provider and he was released to return to work on March 30, 2020. QPS told Alexander someone from human resources would get in touch with him on when he could return to work and that the van needed to be sterilized. Alexander did not hear from QPS. Alexander offered to return to work after he was released to return to work by his medical provider. QPS did not provide him with work. I find his separation was with good cause attributable to QPS. Benefits are granted.

DECISION:

The June 25, 2020 (reference 01) unemployment insurance decision denying unemployment insurance benefits is reversed in favor of the claimant/appellant. Benefits are allowed, provided the claimant is otherwise eligible.

A handwritten signature in black ink, appearing to read 'H. Palmer', is written over a horizontal line.

Heather L. Palmer
Administrative Law Judge
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August 7, 2020
Decision Dated and Mailed

hlp/mh