

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**SHERI MUTUM**  
Claimant

**APPEAL 21A-UI-03069-SN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FRIENDSHIP HOME ASSN**  
Employer

**OC: 06/07/20  
Claimant: Respondent (2)**

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Iowa Code § 96.5(1) – Voluntary Quit  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

The employer filed an appeal from the January 12, 2021, (reference 04) unemployment insurance decision that allowed benefits based upon her voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on March 16, 2021. Claimant did not participate. Employer participated through Administrator Jessica Nixon. The administrative law judge took official notice of the agency records.

**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 full-time as a dietary cook from July or August 2020, until she was separated from employment on October 28, 2020, when she quit. Dietary Manager Devianne Roter was the claimant's immediate supervisor.

On October 28, 2020, the claimant provided her two week notice to Ms. Rotert. The employer provided a copy of the resignation notice. (Exhibit 1)

On October 29, 2020, the claimant met with Human Resources Director Jenny Fox, Ms. Rotert, and Administrator Jessica Nixon. They discussed her reason for quitting was due to a conflict with another dietary employee.

The claimant was scheduled to work on October 30, 2020 and October 31, 2020. The claimant did not report she was going to be absent and did not report for work.

## 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:

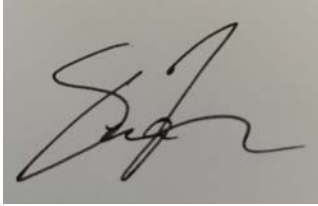
(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

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 claimant submitted her resignation to the employer. While the claimant revoked this resignation on October 29, 2020, she did not report for work after that. 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 January 12, 2020, (reference 04) unemployment insurance decision is reversed. The claimant was discharged from employment for disqualifying misconduct. 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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March 17, 2021  
Decision Dated and Mailed

smn/scn