

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MATTHEW A GERDES
Claimant

APPEAL 21A-UI-16853-DH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE UNIVERSITY OF IOWA
Employer

**OC: 04/25/21
Claimant: Appellant (5)**

Iowa Code § 96.5(1) - Voluntary Quit
Iowa Code § 96.5(2)a - Discharge for misconduct
Iowa Admin. Code r. 871-24.25(27) - Resignation Accepted

STATEMENT OF THE CASE:

On August 1, 2021, the claimant filed an appeal from the July 21, 2021 (reference 02) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit working on July 23, 2021 without good cause attributable to the employer. The parties were properly notified of the hearing. A telephonic hearing was held on September 23, 2021. The claimant, Matthew Gerdes, participated and testified. The employer, The University of Iowa participated through Jessica Wade, human resources business analyst, who testified. Judicial notice was taken of the administrative file and the contents therein.

ISSUE:

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

FINDINGS OF FACT:

Having heard the testimony and reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time with a set schedule, starting March 13, 2020, until his last day worked July 21, 2020. On July 22, 2020, claimant advised his employer, through Kelli Haught, that his dog was injured and needed care. Claimant sent Ms. Haught an e-mail, with the subject line "Resignation" date July 23, 2020 stating he was resigning. The employer accepted the resignation. Employer still had work available for claimant, if he had not resigned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation was without good cause attributable to the employer. Benefits are withheld.

Iowa Code §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(37) 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).

The decision in this case rests, at least in part, on the credibility of the witnesses. It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

After assessing the credibility of the witnesses who testified during the hearing, reviewing the exhibits submitted by the parties, considering the applicable factors listed above, and using his own common sense and experience, the administrative law judge finds the employer's version of events to be more credible than the claimant's recollection of those events. Claimant fails to mention the e-mail or assert he was told to report to work or resign in his appeal or in his case in chief during the hearing. It is only after the employer testifies about the e-mail in their case in

chief that claimant admits to the e-mail in his rebuttal, offering his theory to explain away the e-mail. When asked why he did not mention the resignation and why he resigned in his appeal or in his case in chief, claimant offers a woefully inadequate explanation. When asked why he did not put in the resignation e-mail itself that he is resigning under protest because he is being given the choice to report to work or resign, no convincing explanation was provided.

Claimant resigned to tend to his injured dog. While this may be good a reason to quit, it is not a good reason attributable to the employer. As such, benefits must be denied.

DECISION:

The July 21, 2021 (reference 02) unemployment insurance decision denying benefits is MODIFIED with no change in effect. Claimant's voluntary quit is found to have occurred one year earlier, on July 23, 2020 and not July 23, 2021 as found in the underlying decision. The separation from employment is 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.



Darrin T. Hamilton
Administrative Law Judge

September 29, 2021
Decision Dated and Mailed

dh/ol