

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JORGE A MONTES CLAUSEN**  
Claimant

**IOWA CITY COMMUNITY SCHOOL DIST**  
Employer

**APPEAL 21A-UI-16523-DH-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/28/21**  
**Claimant: Appellant (1)**

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 July 28, 2021, the claimant filed an appeal from the July 23, 2021 (reference 03) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit working on March 26, 2021 without good cause attributable to the employer. The parties were properly notified of the hearing. A telephonic hearing was held on September 21, 2021. The claimant, Jorge Montes Cluasen, testified and participated, with his attorney, Mr. Tristan Pollard. The employer, Iowa City Community School District did not participate, sending an e-mail to advise. The Notice of Hearing only noticed Iowa Code § 96.5(2)a. Claimant was asked whether there were any objections to adding Iowa Code § 96.5(1) as a noticed matter. There were no objections. Claimant's exhibits A and B were admitted into evidence. 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 as a part time substitute with employer, starting April 15, 2016, until his last day worked sometime toward the end of February 2021. Claimant was making an application for benefits. The Iowa Department of Human Services sent claimant an Employer's Statement of Earnings form. (Claimant's Exhibit A). When claimant received the form, there was no handwriting on the form. Claimant signed, dated the form and got it to the employer. The form states about half way down, just under the table, in the second column, in all capital letters and bold font, **ENDING EMPLOYMENT** and there is a box to the left of this that has a type written "X" in the box. Claimant submitted the form and whatever else the form is to accomplish; the form is a resignation form. The resignation was accepted by the employer, as documented through the

e-mail exchange found in Claimant's Exhibit B. While claimant may not have intended to resign, having submitted the resignation and it being accepted, the resignation cannot be rescinded.

### 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).

Claimant signed and submitted a document that stated "**ENDING EMPLOYMENT**" and the employer accepted the resignation. Claimant has not established good-cause reason attributable to the employer according to Iowa law. While an employer may allow an employee to rescind a resignation that has been accepted, they are under no obligation to do so. In *Langley v. EAB*, 490 N.W.2d 300 (Iowa App. 1992), the claimant gave notice of resignation one month in advance. The employer accepted it. The claimant later attempted to withdraw the notice but the employer refused. The Court of Appeals agreed that the separation was a quit. As such, benefits must be denied.

**DECISION:**

The July 23, 2021 (reference 03) unemployment insurance decision denying benefits is AFFIRMED. Claimant separated from employment 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.



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Darrin T. Hamilton  
Administrative Law Judge

September 24, 2021  
Decision Dated and Mailed

dh/ol