

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ASHLIE R METTLER
Claimant

100 CHIRO POWELL PL
Employer

APPEAL 22A-UI-06112-ED-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/4/21
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.3(7) – Overpayment of Benefits

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 3, 2022, (reference 05) unemployment insurance decision that denied benefits based upon claimant's discharge from employment. The parties were properly notified of the hearing. A telephone hearing was held on April 19, 2022. The claimant, Ashlie Mettler, participated personally. The employer, 100 Chiro Powell PLLC, participated through Jolene Powell. The employer's Exhibit pages 1-51 were offered and admitted. The claimant's Exhibit pages 1-3 were offered and admitted.

ISSUES:

Was the claimant discharged for disqualifying job-related misconduct?
Did claimant voluntarily quit the employment with good cause attributable to employer?
Was the claimant overpaid benefits?

FINDINGS OF FACTS:

Having reviewed all of the evidence in the record, the administrative law judge finds:
Claimant was employed as a full-time chiropractic assistant. Jolene Powell was the claimant's immediate supervisor. Claimant was employed from February 13, 2021 until March 5, 2021 when she voluntarily quit. The claimant worked 4 days in the office and did some training prior to that at home. On March 5, 2022, the claimant sent a text message to Jolene Powell stating that she would not be at work because she needed to take care of personal things and that she was quitting. Claimant's job was not in jeopardy and continuing work was available to her had she not voluntarily quit.

The claimant testified that she quit because she did not get paid and because she had been given additional time off during the day that she hadn't expected at the time of her hire. While the claimant wasn't paid on the day she initially expected to be paid, she was paid for all the hours she worked. Ms. Powell wrote the claimant a business check to ensure she was paid because the payroll system was working for the claimant yet. The claimant also received two additional pay checks during the course of her employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit without good cause attributable to the employer:

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

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 standard of what a reasonable person would have believed under the circumstances is applied in determining whether a claimant left work voluntarily with good cause attributable to the employer. *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993).

Where a claimant gives numerous reasons for leaving employment the agency is required to consider all stated reasons which might combine to give the claimant good cause to quit in determining any of those reasons constitute good cause attributable to the employer. *Taylor v. Iowa Dep't of Job Serv.*, 362 N.W.2d 534 (Iowa 1985).

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:

(21) The claimant left because of dissatisfaction with the work environment.

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

It is the duty of the administrative law judge, as the trier of fact, 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

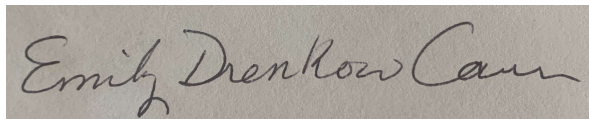
or her own observations, common sense and experience. Id. In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other evidence you believe; whether a witness has made inconsistent statements; 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. In this case, the administrative law judge finds the employer's testimony more credible than the claimant's testimony.

Claimant's written resignation via text message is both evidence of her intention to sever the employment relationship and an overt act of carrying out that intention. Claimant voluntarily quit her employment. Claimant provided multiple reasons for quitting her job. In her text message sent to the employer, claimant quit the job because she had personal issues she needed to handle. In her testimony, the claimant stated she quit because she was not paid and because her hours were different than she expected them to be at the time of hire. The administrative law judge has considered all of them and finds that none of them constitute good cause attributable to the employer.

The evidence shows that claimant was paid for all time worked. No credible evidence was presented that claimant was required to work hours different from those set forth at the time of her hire. Claimant has not met her burden of proving she voluntarily quit her employment for good cause attributable to employer. Benefits are denied.

DECISION:

The March 3, 2022, (reference 05) unemployment insurance decision is affirmed. Claimant voluntarily quit but not for good cause attributable to the employer. Benefits are denied.

A handwritten signature in cursive script that reads "Emily Drenkow Carr". The signature is written in dark ink on a light-colored, slightly textured background.

Emily Drenkow Carr
Administrative Law Judge

May 16, 2022

Decision Dated and Mailed

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