

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROSMARIE E CORNELL
Claimant

CARE INITIATIVES
Employer

APPEAL 21A-UI-21845-AR-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/08/21
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant, Rosmarie E. Cornell, filed an appeal from the September 23, 2021, (reference 01) unemployment insurance decision that denied benefits based upon the determination that claimant voluntarily quit employment without showing good cause for having done so. The parties were properly notified of the hearing. A telephone hearing was held on November 22, 2021. The claimant participated personally. The employer, Care Initiatives, participated through hearing representative Alyce Smolsky, who did not testify, with testifying witness Brittany Holmes.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a certified nursing assistant (CNA) from March 2, 2021, until this employment ended on August 6, 2021, when she failed to report or call in for three shifts.

Claimant stated she heard many complaints from other staff about management. She was concerned about her certification as the result of these complaints. Finally, near the end of the time she was employed, she stopped reporting for work. She did not tell anyone at the employer that she was quitting. Claimant did not make a complaint or express a concern about her employment to anyone at the employer.

Claimant failed to report for work or call in as absent on August 4, 5, and 6, 2021. On August 6, 2021, the employer considered her separated from employment. The employer has a policy dictating that three no call/no shows result in separation.

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(4) 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 § 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 § 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

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, 394–95 (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 her 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. While claimant testified that she was concerned about her certification based on the employer's employment practices, she could provide no details about what caused this concern. Furthermore, though she testified that she had these concerns, she did not notify any decision-maker at the employer of her concerns in order to allow it to respond to or remediate the issues. These assertions are not credible. Finally, she did not rebut the employer's credible testimony indicating that she did not report to or call out absent for three consecutive shifts.

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer.

DECISION:

The September 23, 2021, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as she is otherwise eligible.



Alexis D. Rowe
Administrative Law Judge

December 29, 2021
Decision Dated and Mailed

ar/kmj