

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KRISTEN L WILSON
Claimant

LIFE CONNECTION LLC
Employer

APPEAL 21A-UI-12061-AD-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On May 6, 2021, Kristen Wilson (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated May 4, 2021 (reference 02) that denied benefits based on a finding claimant left employment voluntarily on March 19, 2021 without good cause attributable to employer.

A telephone hearing was held on July 16, 2021. The parties were properly notified of the hearing. The claimant participated personally. Life Connection LLC (employer/respondent) participated by HR Director Mickey Petersen. Behavioral Health Manager Rebecca Edwards participated as a witness for employer. Official notice was taken of the administrative record.

ISSUE(S):

- I. Was the separation from employment a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant began working for employer on June 4, 2019. Claimant worked for employer part-time as a behavioral health intervention provider. Edwards was claimant's immediate supervisor beginning in October 2020. The last day claimant worked on the job was March 22, 2021. Claimant voluntarily resigned on that date.

On the morning of March 22, 2021, Edwards met with claimant to discuss two write-ups being issued to her. Claimant did not agree with the write-ups, which were related to concerns about professionalism and properly reporting certain information to Edwards. However, the write-ups were not disciplinary in nature so much as they were meant to remind claimant of these requirements and retraining. They did not result in a demotion, a suspension, or anything similar.

A few minutes into the meeting claimant became upset and indicated she would not sign anything. Edwards did not ask claimant to sign anything; there was in fact no physical document

for claimant to sign, and employer does not have employees sign write-ups. They are simply documented in the employee's file.

Claimant also indicated she was going to resign. Edwards asked her to write a letter of resignation if she was going to resign. Claimant refused to do so and instead threw her keys on the table and said she would seek legal advice. Claimant did not attempt to contact employer after that time or seek to appeal the write-ups to a higher authority within employer. Claimant had not previously raised concerns with employer prior to resigning. Continued work was available had she not resigned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated May 4, 2021 (reference 02) that denied benefits based on a finding claimant left employment voluntarily on March 19, 2021 without good cause attributable to employer is AFFIRMED.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 in relevant part:

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:

(28) The claimant left after being reprimanded.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). "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". Id. (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). 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).

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.*

Claimant testified that Edwards told her she would not be able to return to work unless she signed the write-ups. She testified that because she did not sign the write-ups and believed she could not return to work if she did not, she presumed she was discharged. However, claimant acknowledges there was no physical write-up present at the meeting and nothing was physically presented to her to sign. Furthermore, Edwards credibly testified that no write-up was presented and claimant was not required to sign anything. This is consistent with Edwards's testimony regarding employer's practices when write-ups are presented. For these reasons, the administrative law judge found claimant was not presented with a physical write-up and told she must sign it to return to work.

Employer has carried its burden of proving claimant's departure from employment was voluntary. However, claimant has not carried her burden of proving the voluntary leaving was for good cause attributable to employer.

The administrative law understands that claimant disagreed with the write-ups. However, disagreeing with a reprimand is presumed to not be a good cause reason for resigning attributable to employer. The administrative law judge finds the resignation due to reprimand was without good cause here. Notably, the write-ups were not disciplinary in nature; claimant gave no notice that she would have to resign if the write-ups were not withdrawn or amended; and made no effort to appeal the write-ups to a higher authority with her employer. A reasonable person would not find the write-ups here to be so intolerable or offensive as to justify immediate resignation, particularly without providing some notice to employer or attempting to otherwise address the matter with employer before doing so. The separation from employment is therefore disqualifying.

DECISION:

The decision dated May 4, 2021 (reference 02) that denied benefits based on a finding claimant left employment voluntarily on March 19, 2021 without good cause attributable to employer is AFFIRMED. Claimant's separation from employment was disqualifying. Benefits must be denied, and employer's account shall not be charged. This disqualification shall continue until claimant has earned wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is not otherwise disqualified or ineligible.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

July 20, 2021
Decision Dated and Mailed

abd/lj

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.