

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROSEMARY BLAU
Claimant

ABCM CORPORATION
Employer

APPEAL 21A-UI-09783-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/28/21
Claimant: Appellant (1)

Iowa Code §96.5(2)a - Discharge/Misconduct
Iowa Code §96.5(1) - Voluntary Quit

STATEMENT OF THE CASE:

On April 7, 2021, the claimant/appellant filed an appeal from the April 2, 2021, (reference 01) unemployment insurance decision that disallowed benefits based on claimant voluntarily quitting for personal reasons. The parties were properly notified about the hearing. A telephone hearing was held on June 18, 2021. Claimant participated at the hearing. Employer did not register a number to participate in the hearing prior to the hearing and therefore did not participate in the hearing. Claimant's Exhibit A was admitted into the record.

ISSUE:

Was the separation 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 September 2, 1999. Claimant last worked as a full-time Certified Nurse Assistant and Rehabilitation Aide. Claimant's worked 6:00 a.m. until 2:00 p.m. Claimant was separated from employment on February 28, 2021, when she submitted her written letter of resignation. Prior to Claimant submitting her resignation she had a conversation with her supervisor, Brook Harlin. Ms. Harlin informed claimant she would need to move to the third shift. Ms. Harlin stated that claimant was having some ongoing performance issues on her current shift that could lead to termination if she did not move to the third shift. Claimant had a previous written warning about her job performance in December 2020.

Claimant did not want to change to the third shift with the employer. Third shift's hours consisted of working 10:00 p.m. until 6:00 a.m. Claimant was concerned about working overnight and driving in the winter weather. Claimant submitted her written resignation and gave employer two weeks' notice she was quitting.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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(28) 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:

(18) The claimant left because of a dislike of the shift worked.

(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). "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).

In this case claimant voluntarily quit because she was reprimanded. Claimant was concerned that if she continued working for the employer she would be terminated. However, the employer wanted her to continue working but wanted her to work a different shift. Claimant ultimately did not want to be put on the third shift for personal reasons. She did not want to drive at night during the winter. The claimant's voluntary quitting was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The April 2, 2021, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits shall be withheld in regards to this employer until such time as claimant is deemed eligible.



Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

June 30, 2021
Decision Dated and Mailed

cs/kmj

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.