

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MONICA F MCCUEN
Claimant

GOOD SAMARITAN SOCIETY INC
Employer

APPEAL 20A-UI-12412-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/07/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On October 5, 2020, Monica McCuen (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated September 28, 2020 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on June 9, 2020 for reasons not caused by employer.

A telephone hearing was held on January 5, 2021. The parties were properly notified of the hearing. The claimant participated personally and was represented by Attorney Gregory Barntsen. Former HR Director Janice Foote participated as a witness for claimant. Good Samaritan Society Inc (employer/respondent) participated by Employee Relations Specialist Luann Brewington. Participating as a witness for employer was Facility Administrator Betsy Sharp.

Claimant's Exhibit 1. 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 worked for employer full-time as an office manager. Claimant's first day of employment was September 8, 2008. The last day claimant worked on the job was June 9, 2020. Claimant's immediate supervisor was Sharp. Claimant separated from employment on June 9, 2020. Claimant resigned on that date.

Sharp began in the administrator position in November 2019. A few months after taking the position, Sharp came to claimant with several proposed changes. Claimant expressed concerns to Sharp regarding the proposed changes. This included coding a maintenance worker to be paid from a bus driving position and coding salaried employees as having worked on days when they were off for compensatory time. Claimant did not believe it was appropriate for her to code the

hours as Sharp requested and asked Sharp to provide to her in writing a justification for doing so. After speaking with a financial consultant, Sharp determined not to implement the changes and they did not take effect.

Sharp's requests took place several months prior to a June 9, 2020 meeting with claimant, Brewington, and Sharp, and were not brought up again until that meeting. The meeting was held to discuss what employer viewed as claimant's poor attitude. The meeting was not intended to be disciplinary in nature and employer generally viewed claimant as a good employee. Claimant indicated in the meeting that she disagreed with several changes that had been made when employer merged with another business and Sharp began in her position, including the coding changes Sharp had requested.

Claimant was advised during the meeting it was not her place to second-guess Sharp's administration of the building, that her attitude was a problem, and they needed to figure out how to move forward in a more cooperative way. Claimant indicated she did not think she could move forward and that she was resigning. Brewington asked claimant to provide a notice period, which claimant declined to do. Claimant then gathered her things and left.

Claimant resigned because she believed she would eventually be disciplined or terminated by employer for raising concerns about how employer was operating. She also resigned because she believed the coding changes proposed by Sharp several months prior were inappropriate and perhaps illegal. Claimant did not elevate any concerns beyond Sharp and Brewington until after she had resigned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated September 28, 2020 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on June 9, 2020 for reasons not caused by employer is **AFFIRMED**.

Iowa Code section 96.5(1)a 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:

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

(22) The claimant left because of a personality conflict with the supervisor.

(27) The claimant left rather than perform the assigned work as instructed.

Iowa Admin. Code r. 871-24.26 provides in relevant part:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(3) The claimant left due to unlawful working conditions.

(4) The claimant left due to intolerable or detrimental working conditions.

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).

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.

Claimant resigned because she believed she would eventually be disciplined or terminated by employer for raising concerns about how employer was operating. The administrative law judge finds a reasonable person would not immediately resign based on speculation that she may be disciplined or terminated in the future for reasons she deems unfounded.

To the extent claimant resigned due to her belief that the changes proposed by Sharp several months prior were inappropriate or illegal, claimant has not shown that the changes were in fact inappropriate or illegal. Furthermore, the administrative law judge finds a reasonable person would not immediately resign based on proposed changes several months prior that were not clearly inappropriate or illegal and were not ultimately implemented.

Claimant's resignation is best characterized as being due to dissatisfaction with the work environment, due to a personality conflict with the supervisor, and due to a reluctance to perform the assigned work as instructed. These reasons are presumed to be without good cause and the administrative law judge finds they were without good cause here. Claimant has not established that her working conditions were unlawful or that a reasonable person would find them so intolerable or detrimental as to resignation, particularly where the resignation was immediate and without first elevating her concerns.

Because claimant's resignation was without good cause attributable to employer, she is disqualified from benefits.

DECISION:

The decision dated September 28, 2020 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on June 9, 2020 for reasons not caused by 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

January 25, 2021
Decision Dated and Mailed

abd/mh

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 currently 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>.