

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

THERESA PIAZZA
Claimant

CROSSROADS INC
Employer

APPEAL 21A-UI-16839-CS-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/25/21
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

On July 30, 2021, the claimant/appellant filed an appeal from the July 23, 2021, (reference 01) unemployment insurance decision that disallowed benefits based on claimant being discharged for conduct not in the best interest of employer. The parties were properly notified about the hearing. A telephone hearing was scheduled for September 23, 2021 but the hearing was postponed until October 11, 2021. Claimant participated at the hearing. Employer participated through hearing representative, Amelia Gallagher. Witnesses, Marketing and Communications Director and Executive Assistant, Megan Francis, and CEO, Cheryl Plank, were called on behalf of the employer. Exhibit 1 was admitted into the record. Administrative notice was taken of claimant's unemployment insurance benefit records.

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 8, 2020. Claimant last worked as a part-time volunteer coordinator of Meals on Wheels. Claimant was separated from employment on April 23, 2021.

On April 23, 2021, claimant called Megan Francis upset. Claimant told Ms. Francis that she was giving her two week notice and that she could blame the hospital. Ms. Francis asked her if they could talk about it. Claimant told Ms. Francis that she did not want to talk and that she should consider this her resignation and hung up on Ms. Francis. Later on that day the employer posted claimant's position so they could find someone to replace her.

On Saturday, April 24, 2021, claimant sent a text message to Ms. Francis informing her that she saw that her job was posted and that she viewed it as though she was fired. Ms. Francis responded that claimant had resigned. On April 26, 2021, the claimant, Ms. Francis, and Ms. Plank met to discuss the events that occurred on the 23rd. Claimant contended that she did not resign. The employer informed her that they accepted her resignation and they considered it a

resignation. Claimant cleaned out her work space. The employer asked for her computer and keys back but did not escort her out of the building or issue a termination letter which is standard procedure. Claimant was paid by the employer until May 7, 2021.

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 Admin. Code r. 871-24.25(37) 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:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

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). 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).

Claimant tendered a verbal resignation to Ms. Francis which was accepted by the employer on April 23, 2021. The employer asked if they could talk about it and the claimant refused. The employer then posted claimant's position. The next day the claimant states that she did not intend on resigning, however, this was after the employer had accepted her resignation. The employer had continuing work available to the claimant if she had not tendered her resignation. Claimant's voluntarily quit was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The July 23, 2021, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.



Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

October 14, 2021
Decision Dated and Mailed

cs/mh

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.