

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ADAM J NUZUM**  
Claimant

**DES MOINES IND COMM SCH DIST**  
Employer

**APPEAL 21A-UI-09420-ED-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 5/31/20**  
**Claimant: Appellant (1)**

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Iowa Code 96.5(2)A – Discharge for Misconduct  
Iowa Code § 96.5(1) – Voluntary Quit for Reasons Attributable to the Employer

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the March 30, 2021 (reference 02) unemployment insurance decision that found that the claimant was disqualified from receipt of benefits based on being placed on a suspension. The parties were properly notified of the hearing. A telephone hearing was held on June 17, 2021. The claimant, Adam Nuzum, participated personally. The employer, Des Moines Ind Comm Sch Dist, participated through Benefits Specialist, Rhonda Wagoner and Director of Transportation, Lashone Mosley. The claimant's Exhibit 1 was received. The employer's Exhibit A was received.

**ISSUE:**

Was the claimant discharged for misconduct?  
Did the claimant voluntarily quit for reasons attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed beginning December 27, 2018 as a bus driver. In February 2020, Claimant informed his employer that he had received criminal charges that were pending an outcome. On February 17, 2021 claimant was placed on administrative leave without pay for 120 days to allow the criminal proceedings to go on and the employer to conduct its own investigation. On May 26, 2021, Claimant submitted his written voluntary resignation. This resignation was submitted one day prior to his scheduled meeting with the employer regarding his administrative leave. Claimant submitted his resignation so he would maintain a clean employment record.

**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.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

In this case claimant submitted his written resignation. Claimant separated from his employment to voluntarily to keep his record clean. This is not good cause attributable to the employer.

"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).

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

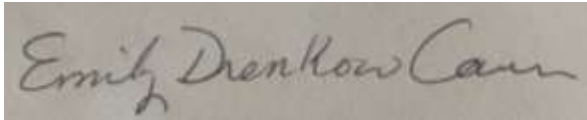
Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 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:

(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 tendered a written notice of intent to resign which was accepted effective May 26, 2021 by the employer. While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

**DECISION:**

The March 30, 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.

A rectangular box containing a handwritten signature in cursive script that reads "Emily Drenkow Carr".

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Emily Drenkow Carr  
Administrative Law Judge

June 30, 2021  
Decision Dated and Mailed

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