

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROBERT C REYNOLDS
Claimant

SARAH ANDREW TRUCKING INC
Employer

APPEAL 21A-UI-05463-DB-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (5R)

Iowa Code § 96.5(1) – Voluntary Quitting of Work

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the February 9, 2021 (reference 02) unemployment insurance decision that denied benefits to the claimant based upon a discharge from work on November 13, 2020. The parties were properly notified of the hearing. A telephone hearing was held on April 23, 2021. The claimant participated personally. The employer participated through witness Ricky Clark. Employer's Exhibit 1 was admitted. The administrative law judge took official notice of the claimant's unemployment insurance benefits records. This hearing was consolidated with Appeal No. 21A-UI-05462-DB-T.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed an original claim for unemployment insurance benefits funded by the State of Iowa with an effective date of April 5, 2020. Claimant worked full-time as a driver beginning June 3, 2019 and his last day physically worked on the job was November 13, 2020. When he was hired, the claimant understood that he would work 40-50 hours some weeks and he would work less than 40 hours other weeks, depending upon the weather and business needs.

From October 25, 2020 through November 13, 2020, the claimant was still employed at his regular hours and wages as in his original contract of hire. He worked his full-time hours and reported gross wages for each weekly-continued claim above his established weekly-benefit amount of \$518.00 for the week-ending October 31, 2020 and November 7, 2020. For the week-ending November 14, 2020, the claimant reported earning wages less than his weekly-continued benefit amount and received benefits of \$238.00; however, he still worked his regular shifts that week.

On November 13, 2020, the claimant notified the employer that he would not be able to work on Monday, November 16, 2020 due to a daycare issue. The employer had work available to the claimant. Then, on November 16, 2020, the claimant notified the employer that he had a

medical issue and was seeking medical attention. Claimant did not work on November 16, 2020 through December 2, 2020 due to a medical issue. Claimant never advised his employer that he was not coming to work due to the medical issue after November 17, 2020.

On November 20, 2020, the claimant drove to work to pick up his paycheck. Claimant did not work that day due to a medical issue. Claimant never provided medical documentation that he was advised to remain off of work for any period of time. Claimant received a written discipline on November 20, 2020 warning him that his job was in jeopardy if he continued to fail to come to work or fail to notify the employer of his absences. See Exhibit 1. Claimant continued to be absent after the written warning from November 23, 2020 through December 2, 2020. On December 3, 2020, the claimant was notified via text message from Mr. Clark that he believed he abandoned his job because he had not notified him of multiple absences and failed to go to work. Claimant was scheduled to meet with Mr. Clark on December 4, 2020. Claimant failed to attend the meeting on December 4, 2020.

The issue of whether the claimant was able to and available for work from April 5, 2020 through October 24, 2020 due to the claimant's various personal appointments is remanded to the Benefits Bureau for an initial investigation and determination.

REASONING AND CONCLUSIONS OF LAW:

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

Claimant had an intention to quit and carried out that intention by failing to return to work or notify the employer that he was absent from work due to medical issues. As such, 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).

Iowa Code section 96.5(1)d 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. But the individual shall not be disqualified if the department finds that:
 - d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

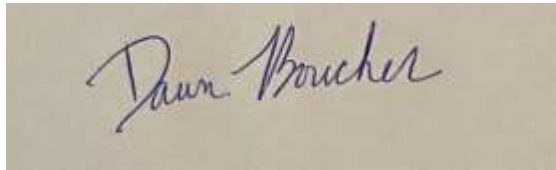
In this case, the claimant left employment because of a medical issue; however, he was never advised by a license and practicing physician to do so and never returned to the employer after his recovery. As such, the claimant's separation from employment on December 4, 2020 is disqualifying.

DECISION:

The February 9, 2021 (reference 02) unemployment insurance decision is modified with no change in effect. Claimant voluntarily quit employment without good cause attributable to the employer on December 4, 2020. Unemployment insurance benefits funded by the State of Iowa are denied until the claimant has worked in and earned wages for insured work equal to ten times his weekly benefit amount after his December 4, 2020 separation date, and provided he is otherwise eligible.

REMAND:

The issue of whether the claimant has been able to and available for work from April 5, 2020 through October 24, 2020 is remanded to the Benefits Bureau for an initial investigation and determination.

A rectangular box containing a handwritten signature in blue ink that reads "Dawn Boucher".

Dawn Boucher
Administrative Law Judge

April 28, 2021
Decision Dated and Mailed

db/ol

Note to Claimant

- This decision may determine you are not eligible for regular unemployment insurance benefits funded by the State of Iowa under state law and 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.
- If you do not qualify for regular unemployment insurance benefits funded by the State of Iowa under state law, you may qualify for benefits under the Federal Pandemic Unemployment Assistance ("PUA") section of the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act") that discusses eligibility for claimants who are unemployed due to the Coronavirus.
- **You will need to apply for PUA to determine your eligibility under the program.**
For additional information on how to apply for PUA go to:
<https://www.iowaworkforcedevelopment.gov/pua-information>.
- If you are denied regular unemployment insurance benefits funded by the State of Iowa and wish to apply for PUA, please visit:

<https://www.iowaworkforcedevelopment.gov/pua-information> and scroll down to “Submit Proof Here.” You will fill out the questionnaire regarding the reason you are not working and upload a picture or copy of your fact-finding decision. Your claim will be reviewed for PUA eligibility. If you are eligible for PUA, you will also be eligible for Federal Pandemic Unemployment Compensation (FPUC) until the program expires. Back payments PUA benefits may automatically be used to repay any overpayment of state benefits. If this does not occur on your claim, you may repay any overpayment by visiting: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>.

- If you have applied and have been approved for PUA benefits, this decision will **not** negatively affect your entitlement to PUA benefits.