

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARSHA J BAILEY
Claimant

DUBUQUE HOLY FAMILY CATHOLIC
Employer

APPEAL 21A-UI-01480-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (5R)

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

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the December 8, 2020 (reference 02) unemployment insurance decision that denied benefits to the claimant based upon a voluntarily quitting work. The parties were properly notified of the hearing. A telephone hearing was held on February 19, 2021. The claimant participated personally. The employer, Dubuque-Holy Family Catholic, was represented by Paul Jahnke and participated through witness Marie Miller. The parties waived due notice of the issue of reasonable assurance pursuant to Iowa Code § 96.4(5). The administrative law judge took official notice of the claimant's unemployment insurance benefits records. This hearing was consolidated with Appeal No. 21A-UI-01479-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 began working for this employer as a full-time cook since November 18, 2019. This employer is an educational institution. Claimant is contracted to only work during school and does not work during regular breaks such as spring break, winter break, or summer break.

Claimant filed an original claim for unemployment insurance benefits with an effective date of March 29, 2020. The claimant's weekly benefit amount is \$351.00. Her base period consists of wages earned with Scenic Acres in the following amounts:

	2018/4	2019/1	2019/2	2019/3
Scenic Acres	\$8,076.00	\$6,447.00	\$6,747.00	\$5,950.00

She had worked full-time for Scenic Acres as a Community Service Provider. Scenic Acres is not an educational institution.

When the COVID-19 pandemic occurred, this employer was on its customary spring break from March 15, 2020 through March 21, 2020. Classes were scheduled to resume on March 23, 2020 after spring break but they did not because the school was completely closed for the remainder of the 2019/2020 school year due to the COVID-19 pandemic. The school year for the 2019/2020 session ended on June 4, 2020.

Claimant filed weekly-continued claims for benefits from March 29, 2020 through August 1, 2020. She was paid unemployment insurance benefits from March 29, 2020 through August 1, 2020. She only reported gross wages earned during the week-ending August 1, 2020 when she reported \$62.00. Claimant earned gross wages of \$420.00 for the week-ending April 4, 2020 but failed to report those earnings when filing her weekly-continued claim for benefits. Claimant did not earn any further wages from this employer after April 4, 2020. Claimant's administrative records establish that she also was paid Federal Pandemic Unemployment Compensation (FPUC) benefits.

On May 12, 2020, the claimant and Ms. Miller spoke over the telephone and Ms. Miller offered for her to return the next 2020/2021 school year in the same position and the claimant accepted. On May 29, 2020, the claimant tendered a written resignation by email stating that she would be available for an additional two-week period until June 12, 2020. Claimant voluntarily quit her position in order to move to a new city. There was continuing work available to her if she had not voluntarily quit. Claimant began employment with another full-time employer on July 1, 2020. Claimant had been able to and available for work through the end of the 2019/2020 school year.

The issue of whether the claimant was overpaid regular unemployment insurance benefits for the week-ending April 4, 2020 and from June 14, 2020 through August 1, 2020 will be remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination. The issue of whether the claimant was overpaid FPUC benefits for the week-ending April 4, 2020 and from June 14, 2020 through August 1, 2020 will be remanded to the Benefits Bureau of Iowa Workforce Development for an investigation and determination.

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.

Claimant had an intention to quit and carried out that intention by submitting her written resignation. 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 Admin. Code r. 871-24.25(2) 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:

(2) The claimant moved to a different locality.

The claimant's voluntary quitting was not for a good-cause reason attributable to the employer according to Iowa law. As such, the separation from employment is disqualifying and unemployment insurance benefits funded by the State of Iowa must be denied.

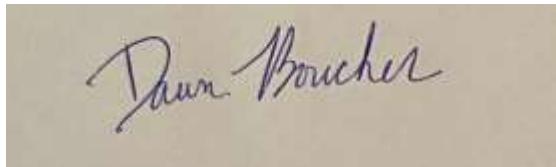
DECISION:

The December 8, 2020 (reference 02) unemployment insurance decision is modified with no change in effect. Claimant voluntarily quit employment without good cause attributable to the employer. 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 her weekly benefit amount after her June 12, 2020 separation date, and provided she is otherwise eligible.

REMAND:

The issue of whether the claimant was overpaid regular unemployment insurance benefits for the one-week period ending April 4, 2020 and from June 14, 2020 through August 1, 2020 will be remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination. The issue of whether the claimant was overpaid FPUC benefits for the week-ending April 4, 2020 and from June 14, 2020 through August 1, 2020 will be remanded to the Benefits Bureau of Iowa Workforce Development for an investigation and determination.

This decision denies unemployment insurance benefits funded by the State of Iowa. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits. See Note to Claimant below.

A handwritten signature in blue ink that reads "Dawn Boucher". The signature is written in a cursive, flowing style.

Dawn Boucher
Administrative Law Judge

March 01, 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.