

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JADE BACON
Claimant

RED OAK EXPRESS
Employer

APPEAL 20A-UI-11061-J1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/05/20
Claimant: APPELLANT (2)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On September 10, 2020, the claimant filed an appeal from the September 3, 2020, (reference 02) unemployment insurance decision that denied benefits based on voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on October 27, 2020. Claimant participated. Employer participated through Jennifer McCray, Human Resources Specialist and Peggy Boeye, Regional Office Manager. Employer's Exhibit A and Claimant's Exhibit B were admitted into the record.

ISSUE:

Did claimant have good cause attributable to the employer for quitting?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on March 11, 2020. Claimant last worked as a full-time press operator. Claimant was separated from employment on April 6, 2020, when she was advised by her treating doctor to stop working due to increased risk of health complications due to Covid-19. Claimant's last day at work was April 6, 2020. Claimant was ill and told her immediate supervisor, Paul (no last name given); she was ill and going home. Claimant was ill in March 2020 and missed work. The employer received a note from claimant's doctor advising that the claimant could return to work when her symptoms had abated.

Claimant returned on April 6, 2020 and felt ill. Claimant told her supervisor Paul she was leaving work. Claimant texted Tess Nelson, General Manager, to let Ms. Nelson that she had to leave work and was going into isolation/self-quarantine. (Ex. B) Claimant testified that her doctor sent a note to her employer informing the employer that claimant should not be at work due to her underlying health condition-asthma.

Ms. Boeye testified that the last contact that claimant had with the employer was when she told her immediate supervisor she was leaving work on April 6, 2020. Ms. Boeye was not aware of the text message to Ms. Nelson or any additional note for claimant's doctor that recommend claimant

not risk exposure to Covid-19 in the work place. Ms. Boeye and claimant testified that the employer has a two-day No Call/No Show policy that considers two days of No Call/No Show as voluntary quit. Ms. Boeye sent a text to claimant on April 23, 2020 stating that the employer considered claimant had voluntary quit for No Call/No Show as of April 6, 2020. (Ex. A)

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether claimant had good cause for quitting her employment. For the reasons and law set forth below I find claimant had good cause attributable to her employer and is eligible for unemployment benefits.

“Good cause attributable to the employer” does not require fault, negligence, wrongdoing or bad faith by the employer. *Dehmel v. Employment Appeal Bd.*, 433 N.W.2d 700, 702 (Iowa 1988)(“[G]ood cause attributable to the employer can exist even though the employer is free from all negligence or wrongdoing in connection therewith”); *Shontz v. Iowa Employment Sec. Commission*, 248 N.W.2d 88, 91 (Iowa 1976)(benefits payable even though employer “free from fault”); *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787, 788 (Iowa 1956)(“The good cause attributable to the employer need not be based upon a fault or wrong of such employer.”). Good cause may be attributable to “the employment itself” rather than the employer personally and still satisfy the requirements of the Act. *Raffety*, 76 N.W.2d at 788 (Iowa 1956).

Ordinarily “good cause” is derived from the facts of each case keeping in mind the public policy stated in Iowa Code Section 96.2. *O’Brien v. EAB* 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). “The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the test of good faith.” *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). “Common sense and prudence must be exercised in evaluating all of the circumstances that led to an employee’s quit in order to attribute the cause for the termination.” *Id.*

Iowa Code section 96.5(1) 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. 871-24.26(2) provides:

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:

- (2) The claimant left due to unsafe working conditions.

I find that the claimant notified Ms. Nelson that she was required to be off work on April 6, 2020 and that claimant's doctor notified the employer that claimant should not be at work. I find that claimant did not violate the No Call/No Show policy.

I also find claimant had good cause attributable to the employer for not returning to work. Neither the claimant nor the employer are at fault regarding the end of claimant's employment. However, conditions related to the pandemic made working for the employer unsafe. Covid-19, which has killed over 1,600 Iowans. Over one hundred thousand Iowans and two million persons in the United States have been infected. I find that claimant had good cause for quitting her employment due to change in contract of hire and unsafe working conditions.

DECISION:

Regular Unemployment Insurance Benefits Under State Law

The September 3, 2020, (reference 02) unemployment insurance decision is reversed. Benefits are payable, provided claimant is otherwise eligible.

Pandemic Unemployment Assistance (PUA) Under the Federal CARES Act

Even though claimant is not eligible for regular unemployment insurance benefits under state law, claimant may be eligible for federally funded unemployment insurance benefits under the CARES Act. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. This decision does not address when claimant is eligible for PUA. For a decision on such eligibility, claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

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.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information about how to apply for PUA, go to:

<https://www.iowaworkforcedevelopment.gov/pua-informatio>
<https://www.iowaworkforcedevelopment.gov/Pua-application>



James F. Elliott
Administrative Law Judge

October 29, 2020
Decision Dated and Mailed

je/scn