

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

GUADALUPE MONCADA

Claimant

APPEAL NO: 20A-UI-06941-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

STAFF MANAGEMENT SOLUTIONS LLC

Employer

OC: 04/12/20

Claimant: Appellant (5)

Iowa Code Section 96.4(3) – Able & Available
Iowa Administrative Code rule 871-24.23(10) – Leave of Absence
Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant, Guadalupe Moncada, filed a timely appeal from the June 17, 2020, reference 01, decision that disqualified her for benefits and that held the employer's account would not be charged for benefits, based on the deputy's conclusion that Ms. Moncada voluntarily quit on March 22, 2020 without good cause attributable to the employer. After due notice was issued, a hearing was held on July 31, 2020. Ms. Moncada participated. The employer did not provide a telephone number for the hearing and did not participate. Exhibit A was received into the hearing record. The administrative law judge took official notice of the following Agency administrative record: KCCO, DBRO, and KPYX. The Administrative law judge left the hearing record open for the limited purpose of allowing Ms. Moncada the opportunity to submit medical documentation concerning her need to be away from work. On August 3, 2020, Ms. Moncada submitted a document in Spanish, dated April 14, 2020, which document the administrative law judge received into evidence as Exhibit B.

ISSUES:

Whether the claimant voluntarily quit the employment on March 22, 2020 without good cause attributable to the employer.

Whether the claimant was able to work and available for work during the three-week period of April 12, 2020 through May 2, 2020.

Whether the claimant was on a leave of absence during the three-week period of April 12, 2020 through May 2, 2020.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Guadalupe Moncada is employed by Staff Management Solutions, L.L.C. as a full-time Line Leader at Proctor & Gamble in Iowa City. Ms. Moncada began the employment in April 2019. After Ms. Moncada worked her shift on Sunday, March 22, 2020, she began an approved leave of absence that was based on concern about being exposed to COVID-19 in the workplace. There had been three confirmed positive cases of COVID-19 in the workplace. The employer had in

place a policy that would not assess attendance points to employees who missed work due to concern about COVID-19. Ms. Moncada was recently widowed and has four children. Ms. Moncada was concerned about the impact on her family if she became sick with COVID-19 and/or if she took the illness home to her family. The employer had in place safety protocols to hinder spread of COVID-19. These included taking the temperature of workers as they entered the facility, providing masks, and providing hand sanitizer. Ms. Moncada was concerned that these were not enough to prevent her from being exposed to COVID-19. Ms. Moncada returned to the employment on or about May 11, 2020 and continued in the employment at the time of the July 31, 2020 appeal hearing.

While Ms. Moncada was on her leave of absence, her parents learned that they had been exposed to COVID-19 at their workplace. Ms. Moncada and her children reside in the same household with Ms. Moncada's parents. Effective April 14, 2020, Ms. Moncada's parents were voluntarily quarantined in their room at the family home for two weeks with no contact with Ms. Moncada or her children. The quarantine was at the request of the Iowa Department of Public Health and was set forth in an April 14, 2020 letter to Ms. Moncada's father. Ms. Moncada's parents returned to their work at the end of the quarantine period. Ms. Moncada elected to remain off work until her return to work on or about May 11, 2020.

REASONING AND CONCLUSIONS OF LAW:

A quit is a separation initiated by the employee. Iowa Administrative Code rule 871-24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See Iowa Administrative Code rule 871-24.25.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.22(2) provides, in relevant part, as follows:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market.

Iowa Admin. Code r. 871-24.23(10) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

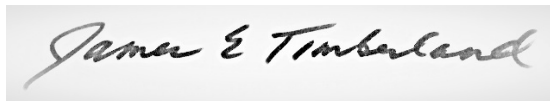
Ms. Moncada did not quit the employment or otherwise separate from the employment effective March 22, 2020. Rather, she commenced an approved leave of absence on that date and continued on an approved leave of absence until she returned to the employment on or about May 11, 2020. Ms. Moncada spoke to the employer prior to going off work. The employer shared that it was not assessing attendance points to employees who wished to stay home due to the concern about COVID-19. Ms. Moncada and the employer had a mutual understanding that Ms. Moncada would return to the employment as the immediate concern related to the three positive cases of COVID-19 subsided.

During the time when Ms. Moncada was on her leave of absence she was voluntarily unemployed and not available for work within the meaning of the law, even under the United States Department of Labor's guidance to flexibly interpret this requirement. See Unemployment Insurance Program Letter No. 10-20. Therefore, Ms. Moncada is not eligible for regular, state-funded unemployment insurance benefits from the period of April 12, 2020 through May 2, 2020.

Even though claimant is not eligible for regular unemployment insurance benefits under state law, the claimant may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. 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.

DECISION:

The June 17, 2020, reference 01, is modified as follows. The claimant did not voluntarily quit or otherwise separate from the employer on March 22, 2020. Instead, the claimant was on a leave of absence for the period of March 22, 2020 until she returned to the employment on or about May 11, 2020. While the claimant was on the leave of absence, she was voluntarily unemployed and not available for work within the meaning of Iowa Code Section 96.4(3). Accordingly, the claimant is not eligible for regular, state-funded unemployment insurance benefits for the period of April 12, 2020 through May 2, 2020.



James E. Timberland
Administrative Law Judge

September 15, 2020
Decision Dated and Mailed

jet/scn

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 on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you will be required to repay the benefits you have received.**