

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ERIC B HEMPHILL
Claimant

LGC ASSOCIATES LLC
Employer

**APPEAL 20A-UI-11023-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/08/19
Claimant: Appellant (1R)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Claimant filed an appeal from the August 31, 2020 (reference 04) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on November 2, 2020, at 3:00 p.m. Claimant participated. Employer did not participate. No exhibits were admitted.

ISSUE:

Whether claimant's separation was a voluntary quit without good cause attributable to employer.

FINDINGS OF FACT:

As claimant was the only witness, the administrative law judge makes the following findings of fact based solely upon claimant's testimony: Claimant was employed as a part-time Hospitality Person from September 20, 2019 until his employment with LGC Associates ended in March 2020. Claimant's physician advised claimant not to work due to ongoing health issues. Claimant told employer that he was unable to work due to health issues; and employer said "ok." The parties did not discuss when claimant was expected to return to work, whether claimant should remain in contact with employer during his absence, how claimant would notify employer when he was released by his physician to return to work or whether employer would keep claimant's job available for him. Claimant did not complete leave of absence paperwork and was not discharged by employer. Claimant has not worked for employer for seven to eight months but still considers himself an employee. Claimant remains under his physician's care and has not been released to return to work.

The issue of whether claimant is able to and available for work has not been the subject of a fact-finding interview and decision.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit his employment without good cause attributable to employer. Benefits are denied.

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, 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. 871-24.25(20) 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:

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

Claimant has not established that he is on an approved leave of absence. Claimant was unable to work due to health issues which is a compelling personal reason; however, his absence has lasted seven or eight months. Claimant's compelling reason is not attributable to employer. Claimant voluntarily quit without good cause attributable to employer. Benefits are denied.

NOTE TO CLAIMANT: This decision determines you are not eligible for regular unemployment insurance benefits. 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. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

DECISION:

The August 31, 2020 (reference 04) unemployment insurance decision is affirmed. Claimant voluntarily quit without good cause attributable to employer. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

REMAND:

The issue of whether claimant is able to and available for work is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.



Adrienne C. Williamson
Administrative Law Judge
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Iowa Workforce Development
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November 13, 2020
Decision Dated and Mailed

acw/scn