

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

APRIL BEEBE
Claimant

HY-VEE INC
Employer

APPEAL 20A-UI-09195-ED-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/31/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 23, 2020, (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on September 21, 2020. The claimant, April Beebe, participated and testified. Troy LaVanway testified on behalf of the claimant. The employer, Hy-Vee Inc., participated through hearing representative Barbara Buss and Store Director, Gary Jensen.

ISSUE:

Did claimant voluntarily leave the employment with good cause attributable to the employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a breakfast cook store sales associate and manager beginning January 2015 until this employment ended on May 17, 2020 when she voluntarily quit. Claimant's last day worked was May 17, 2020. Claimant's immediate supervisor was Ken Gallagher.

On April 17, 2020, Ms. Beebe submitted her written resignation to her employer. Her resignation provided a 30-day notice of her intent to quit. Ms. Beebe's fiancé was transferred to Maine by his employer. Ms. Beebe intended to move with her fiancé to Maine. Hy-Vee Inc. does not have any stores in Maine. Hy Vee Inc. accepted Ms. Beebe's written resignation, effective May 17, 2020. Continuing work was available to Ms. Beebe at Hy Vee Inc. had she not quit.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was not discharged but voluntarily left the employment without good cause attributable to employer.

Iowa Code § 96.5(2)a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

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.

The Iowa Supreme Court has held that good cause requires “real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith.” *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). Moreover, the court has advised that “common sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination.” *Id.* According to the Iowa Supreme Court, good cause attributable to the employer does not require fault, negligence, wrongdoing or bad faith by the employer. *Dehmel v. Emp't Appeal Bd.*, 433 N.W.2d 700, 702 (Iowa 1988). Good cause may be attributable to “the employment itself” rather than the employer personally and still satisfy the requirements of the Act. *E.g. Raffety v. Iowa Emp't Sec. Comm'n*, 76 N.W.2d 787, 788 (Iowa 1956).

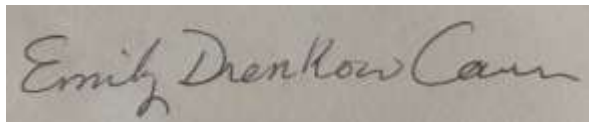
A burden-shifting framework is used to evaluate quit cases. Because an employer may not know why a claimant quit, the claimant has the initial burden to produce evidence suggesting the claimant is not disqualified from benefits under Iowa Code section 96.5(1) a through j and section 96.10. If the claimant produces such evidence, the employer has the burden to prove the claimant is disqualified from benefits under section 96.5(1). Iowa Administrative Code rule 871-24.25 creates a presumption a claimant quit without good cause attributable to the employer in certain circumstances.

Iowa Administrative Code rule 871- 24.26 identifies reasons for quitting that are considered for good cause attributable to the employer. Under rule 871-24.25(2), it is presumed a claimant voluntarily quit without good cause attributable to the employer if the claimant quit to move to a different locality. Here, the evidence shows that Ms. Beebe quit to move to a different locality. Ms. Beebe presented insufficient evidence to suggest she is not disqualified from benefits under Iowa Code section 96.5(1) a through j or section 96.10. Ms. Beebe therefore quit without good cause attributable to the employer under section 96.5(1) and rule 871-24.25(2). 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 due to disqualifying separations, 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 July 23, 2020 (reference 01) unemployment insurance decision is affirmed. Ms. Beebe voluntarily left employment without good cause attributable to Hy Vee Inc. Benefits are withheld until such time as Ms. Beebe has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.



Emily Drenkow Carr
Administrative Law Judge

September 23, 2020
Decision Dated and Mailed

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