

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CLAIRE I TILLOTSON
Claimant

BURLINGTON AREA YMCA INC
Employer

APPEAL 20A-UI-08601-BH-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 04/05/20
Claimant: Appellant (1)

Iowa Code section 96.5(1) – Voluntary Quit
Iowa Administrative Code rule 871-24.25 – Voluntary Quit Without Good Cause Attributable to the Employer
Iowa Administrative Code rule 871-24.26 – Voluntary Quit With Good Cause Attributable to the Employer

STATEMENT OF THE CASE:

The claimant, Claire I. Tillotson, appealed the July 8, 2020 (reference 01) unemployment insurance decision that denied benefits based upon a finding Tillotson voluntary quit her job with Burlington Area YMCA, Inc. (YMCA) without good cause attributable to the employer. The agency properly notified the parties of the appeal and hearing.

The undersigned presided over a telephone hearing on September 2, 2020. Tillotson participated personally and testified. The YMCA participated through program director Jenna Caffey, who testified.

ISSUES:

Was Tillotson's separation from employment with the YMCA a layoff, discharge for misconduct, or voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the undersigned finds the following facts.

The YMCA in Burlington first hired Tillotson when she was in high school. It was her first job. When Tillotson went to college, she continued working for the YMCA occasionally during spring and winter breaks and the occasional weekend. Tillotson last worked for the YMCA on January 3, 2020, before returning to school in Indianola, Iowa.

Tillotson did not return home to work for the YMCA during any weekends. Because three months passed between Tillotson working shifts, the YMCA placed her on inactive status. On

March 14, 2020, a coworker contacted Tillotson about whether she planned to work at the YMCA outdoor pool that summer, as she had done in the past. On March 16, 2020, the YMCA closed due to an order Gov. Kim Reynolds issued in response to the COVID-19 pandemic, which was spreading across the state and nation.

Shortly thereafter, Tillotson learned her college was moving to online instruction because of COVID-19. Tillotson moved home. She had anticipated working for the YMCA that summer, as she had in the past. YMCA employees get a free membership to use the YMCA's facilities. Tillotson attempted to go to the YMCA in June, but found out the YMCA no longer considered her an employee.

The YMCA opened its indoor pool for lap swimming on June 1, 2020. However, it did not open its outdoor pool. Consequently, Tillotson had nowhere to return to work. The YMCA views Tillotson as a good employee who is eligible for rehire.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the undersigned concludes Tillotson voluntarily left employment with YMCA without good cause attributable to the employer under the Iowa Employment Security Law, Iowa Code chapter 96.

Iowa Code section 96.5(1) disqualifies a claimant from benefits if the claimant quit her job without good cause attributable to the employer. 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(26), it is presumed a claimant quit without good cause attributable to the employer if the claimant left to go to school.

This appeal is an example of the type of situation to which rule 871-24.25(26) applies. Tillotson left Burlington and her employment with the YMCA to go to school in Indianola. She did not return to work on any weekends and did not contact the YMCA after she returned home when her school switched to online instruction due to COVID-19, which could have allowed her to

overcome the presumption that she quit when she left to return to school. Because Tillotson did not work, the YMCA put her on inactive status. For these reasons, there is an insufficient basis in the evidence to allow Tillotson to overcome the presumption under rule 871-24.25(26). Benefits are denied.

DECISION:

Regular Unemployment Insurance Benefits Under State Law

The July 8, 2020 (reference 01) unemployment insurance decision is affirmed. Tillotson voluntarily left employment without good cause attributable to the YMCA. Benefits are withheld until such time as Tillotson has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Pandemic Unemployment Assistance (PUA) Under the Federal CARES Act

Even though Tillotson is not eligible for regular unemployment insurance benefits under state law, she 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 Tillotson is eligible for such compensation for the week claimed.

This decision does not address whether Tillotson is eligible for PUA. For a decision on such eligibility, Tillotson must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.



Ben Humphrey
Administrative Law Judge

October 29, 2020
Decision Dated and Mailed

bh/sam

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 PUA, go to:

<https://www.iowaworkforcedevelopment.gov/pua-information>

- To apply for PUA, go to:

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