

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**SIRENA LINDSAY**  
Claimant

**OM INC**  
Employer

**APPEAL 20A-UI-06711-BH-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/15/20**  
**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, Sirena Lindsay, appealed the June 11, 2020 (reference 01) unemployment insurance decision that denied benefits based upon a finding Lindsay voluntarily quit her job with Om, Inc. (Om) 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 July 28, 2020. Lindsay participated personally and through attorney Elizabeth Araguas. Om participated through Jeet Saini, the owner, who testified.

**ISSUES:**

Was Lindsay's separation from employment with Om 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.

Om hired Lindsay on December 5, 2018. Lindsay worked part time as a sales associate. Her job duties did not vary in a substantial way during her time as an Om employee. Lindsay last performed work for Om on September 2, 2020.

Lindsay has memory issues, anxiety, and bipolar disorder. The job at Om often required her to work alone or with one other person. Ultimately, working at Om began to cause her anxiety and issues with her bipolar disorder.

Lindsay accepted another part-time job at a restaurant. She testified the position fit better with her mental capacity. Lindsay assured Saini that she could handle working both jobs. Lindsay's schedule at the restaurant began to conflict with her schedule at Om. Further complicating matters, Lindsay had changed her residence from Iowa City to central Iowa, meaning she was commuting multiple hours roundtrip to work at Om.

Lindsay testified that she gave Saini notice of her resignation. However, Saini credibly testified Lindsay stopped showing up for work. Saini and Lindsay made arrangements for Lindsay to return her key to the store, but Lindsay failed to follow through on the plans. The totality of the evidence establishes it is more likely than not that Lindsay communicated with Saini her intent to no longer work at Om around the time of her last day worked, perhaps after she stopped showing up for her shifts, by making plans to return her key to the store.

After Lindsay stopped working for Om, she picked up additional hours at the restaurant. In October of 2019, Lindsay was hospitalized for approximately three weeks because of mental health issues. Lindsay did not work again until March of 2020. The restaurant at which she worked closed down twice because of COVID-19—first in March and again in May.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the undersigned concludes Lindsay voluntarily left employment with Om 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. Employment 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 Employment Sec. Comm’n*, 76 N.W.2d 787, 788 (Iowa 1956). The test is an objective one:

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. Rule 871-24.25 states a claimant is disqualified from benefits if the claimant left to seek other employment but did not secure employment.

Lindsay argues that she was incapable of voluntarily leaving employment because of her mental health issues under the Iowa Court of Appeals opinion in *Quenot v. Iowa Department of Job Service*, 339 N.W.2d 624 (Iowa App. 1983). In that case, the claimant left work without notifying the employer, did not come to work the next day, and was hospitalized due to a mental breakdown. *Id.* at 625. She was in and out of the hospital until a doctor released her to return to work weeks later. *Id.* She returned to work and offered her services, only to be turned down. *Id.* The court ruled the claimant did not “voluntarily quit” because she “did not deliberately choose to have a nervous breakdown nor was she able to control her conduct during the time she was ill. It cannot be said that a person who is so mentally disturbed as to be unaware of his or her surroundings is acting voluntarily.” *Id.* at 626–27.

*Quenot* is not controlling in this case. The evidence does not support the finding that Lindsay had a nervous breakdown while employed with Om. Lindsay’s hospitalization came after she quit her job with Om.

Thus, the record does not support the conclusion that Lindsay’s mental health left her unable to “control her conduct” or “so mentally disturbed as to be unaware of his or her surroundings is acting voluntarily” at the time she left employment with Om. *Id.* While Lindsay may have reached that point in October, the evidence does not support the conclusion that she reached it at the time she voluntarily left employment with Om.

Rather, the evidence establishes Lindsay intended to quit her job with Om. While Lindsay worked at Om for a period of time without issue, by August of 2019, it was causing her mental health issues to become problematic. Lindsay credibly testified her job at the restaurant was a better fit. When Lindsay’s hours at the restaurant began conflicting with her hours at Om, she chose working at the restaurant over Om.

After quitting her job with Om, Lindsay was hospitalized for her mental health issues. Lindsay was unable to work for months thereafter. She returned to work at the restaurant in March. Then COVID-19 hit and the restaurant closed.

Lindsay quit her job with Om to pursue other employment but did not secure employment. While it is true Lindsay secured a job with the restaurant, it did not last. Lindsay was hospitalized due to mental health issues in October and did not work because of those issues until March 2020. Lindsay was unable to work for a period of months.

Lindsay argued at hearing that an issue was one relating to wages because Om is not Lindsay’s most recent employer. The June 11, 2020 (reference 03) decision Lindsay appealed did not address wages. The notice of hearing does not identify any issues relating to wages. Therefore, this issue is not properly before the undersigned for a determination.

For the above reasons, Lindsay voluntarily left employment with Om without good cause attributable to the employer. She is therefore not eligible for regular unemployment insurance benefits under state law.

Lindsay and her attorney believe she applied for federal Pandemic Unemployment Assistance (PUA) under the CARES Act. According to the U.S. Department of Labor, PUA provides for up to 39 weeks of benefits to qualifying individuals who are unable or unavailable to work due to one or more COVID-19 related reasons such as:

- The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;

- A member of the individual's household has been diagnosed with COVID-19;
- The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;
- A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work;
- The individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;
- The individual is unable to reach the place of employment because the individual has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;
- The individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19;
- The individual has to quit his or her job as a direct result of COVID-19; or
- The individual's place of employment is closed as a direct result of the COVID-19 public health emergency.

U.S. Dep't of Labor, Unemployment Ins. Program Letter 16-20, "Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Pandemic Unemployment Assistance (PUA) Program Operating, Financial, and Reporting Instructions," p. 3 (Apr. 5, 2020), available online at: [https://wdr.doleta.gov/directives/attach/UIPL/UIPL\\_16-20\\_acc.pdf](https://wdr.doleta.gov/directives/attach/UIPL/UIPL_16-20_acc.pdf) (last viewed July 31, 2020).

This decision does not address whether Lindsay might be eligible for Pandemic Unemployment Assistance (PUA) under the federal CARES Act.

## **DECISION:**

### **Regular Unemployment Insurance Benefits Under State Law**

The June 11, 2020 (reference 01) unemployment insurance decision is affirmed. Lindsay voluntarily left employment without good cause attributable to Om. Benefits are withheld until such time as Lindsay 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 Lindsay 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 Lindsay is eligible for such compensation for the week claimed.

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



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Ben Humphrey  
Administrative Law Judge

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August 7, 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 how to apply for PUA, go to:

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