

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

REAGEN WATERS
Claimant

MENTOR ABI, LLC
Employer

APPEAL 20A-UI-04491-HP-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 04/12/20
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Claimant Reagen Waters filed an appeal from the May 20, 2020 (reference 01) unemployment insurance decision that denied benefits based upon her voluntarily quitting work without good cause attributable to the employer, Mentor ABI, LLC (“Mentor”). The parties were properly notified of the hearing. A telephone hearing was held on June 8, 2020. Claimant Reagen Waters appeared and testified. No one appeared on behalf of Mentor. I took administrative notice of the claimant’s unemployment insurance benefits records maintained by Iowa Workforce Development.

ISSUE:

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause?

FINDINGS OF FACT:

Waters commenced full-time employment as a support trainer for Mentor on December 2, 2019. Waters was responsible for assisting persons with brain and spinal cord injuries with exercises, achieving daily living goals, including cooking and doing laundry, going on outings in the community, and bathing, if needed. The people Waters worked with were living in a residential setting. Stacy Brown was Waters’s direct supervisor.

When the pandemic hit Iowa, Mentor required Waters and all staff to wear masks when working with the residents. Waters has a history of an anxiety disorder with panic attacks following an assault in August 2019. Waters attempted to comply by wearing a mask.

Waters went to work on Saturday, April 11, 2020. Waters wore a mask. She felt nauseous and sweaty, she was experiencing heart palpitations, and she vomited. Waters reported her symptoms to Brown and she told Brown she believed she was having a panic attack from having to wear the mask. Brown let Waters go home early that evening. On Sunday, April 12, 2020, Waters called Brown and told her she would not be able to come into work because she physically could not do it.

The next day Waters spoke with Ashley Smith, the supervisor of Brown's supervisor. Waters reported she was experiencing panic attacks and vomiting from having to wear the mask at work. Smith responded she understood and stated she would speak with human resources.

On Wednesday that week, Smith called Waters and told her the only options Mentor could come up with was for her to take more breaks to remove her mask or to cut her shifts in half. Waters responded she was already taking more breaks and cutting her shifts would not solve the mask problem. Waters determined she had no other choice but to resign. Smith replied she understood and she told Waters when the masks were no longer required Waters could reapply and she would help her through the hiring process as quickly as possible.

Mentor requested a written resignation from Waters. Waters submitted a written resignation on April 15, 2020, reporting she was resigning due to having to wear a mask at work. Waters sent her resignation to Brown through e-mail.

Waters communicated with Brown through text message since she resigned to inquire if Mentor is still requiring its employees to wear masks. Brown responded she believed the staff would be wearing masks for a while.

Waters spoke with her physician, therapist, and medication provider about the situation before she resigned. Her physician, therapist, and medication provider Waters reported her physician, therapist, and medication provider told her they agreed her symptoms when wearing a mask are related to her posttraumatic stress disorder from having been assaulted in August 2019. Waters requested a work restriction from having to wear a mask and her physician, therapist, and medication provider told her they could not provide such a work restriction.

Waters reported two other employees had anxiety from having to wear the masks. She relayed the two employees are wearing masks and have continued to work for Mentor.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides an individual "shall be disqualified for benefits, regardless of the source of the individual's wage credits: . . . 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 a "voluntary quit" means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer." *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989). A voluntary quit requires "an intention to terminate the employment relationship accompanied by an overt act carrying out the intent." *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016).

Waters testified she resigned from Mentor because she cannot tolerate wearing a mask, which Mentor requires. Iowa Admin. Code r. 871-24.25(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

The requirement that employees wear masks during the pandemic while working with persons with brain and spinal cord injuries in a residential setting is not a good cause reason attributable to the employer for the claimant to have quit. The mask requirement does not rise to the level where a reasonable person would feel compelled to resign.

The mask requirement is directly related to Covid-19. Waters may be eligible for additional benefits under federal law. While the claimant may not be eligible for regular State of Iowa unemployment insurance benefits, the claimant may be eligible for unemployment insurance benefits that have been made available to claimants under the Coronavirus Aid, Relief, and Economic Security Act (“Cares Act”). The Pandemic Unemployment Assistance (“PUA”) section of the Cares Act discusses eligibility for claimants who are unemployed due to the Coronavirus. For claimants who are ineligible for regular unemployment insurance benefits under Iowa Code Chapter 96, they may be eligible under PUA.

Note to Claimant: If this decision determines you are not eligible for regular unemployment insurance benefits and 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>.**

DECISION:

The May 20, 2020 (reference 01) unemployment insurance decision denying unemployment insurance benefits affirmed. The claimant voluntarily quit her employment without good cause attributable to the employer. Unemployment insurance benefits are denied until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.



Heather L. Palmer
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June 30, 2020
Decision Dated and Mailed

hlp/scn