

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JACOB M NEWBURY**  
Claimant

**CCW LLC**  
Employer

**APPEAL 20A-UI-11254-S1-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/15/20**  
**Claimant: Appellant (1/R)**

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Iowa Code § 96.5-2-a – Discharge for Misconduct  
Iowa Code § 96.5-1 - Voluntary Quit  
PL 116-136 Section 2104 (B) – Federal Pandemic Unemployment Compensation  
871 IAC 24.10 – Employer Participation in the Fact-Finding Interview

**STATEMENT OF THE CASE:**

Jacob Newbury (claimant) appealed a representative's September 2, 2020, decision (reference 02) that concluded ineligibility to receive unemployment insurance benefits due to voluntarily quitting with the CCW (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 26, 2020. The claimant participated personally. The employer participated by Cauley Schaffert, Human Resources.

The claimant offered and Exhibit A was received into evidence. The administrative law judge took official notice of the administrative file.

**ISSUE:**

The issues include whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on May 8, 2019, as a part-time cook. The employer did not guarantee hours to part-time employees. The employer's business changed from dine in to carry out with the Covid-19 pandemic. The claimant was being scheduled approximately ten hours per week. The employer issued employees a notice about a furlough, even though the employer was still scheduling hours.

On March 23, 2020, the claimant told the store manager and the manager on duty he was quitting. He resigned because he did not think the commuting cost was worth what he was getting paid, given the reduction in his hours. Continued work was available with the employer had he not resigned.

The claimant filed for unemployment insurance benefits with an effective date of March 15, 2020. His weekly benefit amount was determined to be \$198.00. The claimant received benefits of \$198.00 per week from March 15, 2020, to the week ending August 15, 2020. This is a total of \$3,148.00 in state unemployment insurance benefits after the separation from employment. He also received \$9,600.00 in Federal Pandemic Unemployment Compensation for the sixteen-week period ending July 25, 2020.

#### **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:

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.

Iowa Admin. Code r. 871-24.25(30) 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:

(30) The claimant left due to the commuting distance to the job; however, the claimant was aware of the distance when hired.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by his words and actions. He told the employer he was leaving and quit work. When an employee quits work because of a known commuting distance, his leaving is without good cause attributable to the employer. The claimant left work because of the commuting distance to work even though he knew that distance and the variation in hours at the time of hire. His leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, he may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. 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 he or she is eligible for such compensation for the week claimed. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

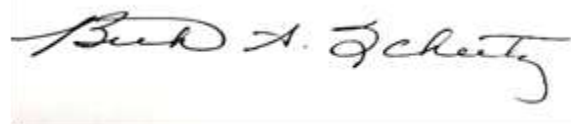
The issue of whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

**DECISION:**

The representative's September 2, 2020, decision (reference 02) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

The issue of whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

*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>.



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Beth A. Scheetz  
Administrative Law Judge

October 28, 2020  
Decision Dated and Mailed

bas/sam