

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

HEIDI R HAESSLER
Claimant

LUNDGREN FAMILY CHIROPRA
Employer

APPEAL 20A-UI-09442-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (2)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.4(3) – Eligibility – Able to and Available for Work

STATEMENT OF THE CASE:

On August 6, 2020, Heidi Haessler (claimant/appellant) filed an appeal from the July 27, 2020 (reference 01) unemployment insurance decision that denied benefits based on a finding claimant voluntarily quit work on March 29, 2020 for personal reasons.

A telephone hearing was held on September 23, 2020. The parties were properly notified of the hearing. The claimant participated personally. Claimant's husband, John Haessler, participated as a witness on her behalf. Lundgren Family Chiropractic (employer/respondent) did not register a number for the hearing and did not participate.

Employer's Exhibits 1-3 were admitted. Official notice was taken of the administrative record.

ISSUES:

- I. Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?
- II. Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant's first day of employment was May 6, 2019. Claimant was unavailable for work from March 13 until March 30, 2020, due to being on vacation and then quarantining after returning from vacation. She returned to work for two days, March 30 and 31, 2020, and then accepted employer's offer to not work for an indeterminate amount of time due to the pandemic. Claimant understood this to be a leave of absence rather than a formal separation from employment and expected employer would call her back to work at some point.

Claimant contacted employer on April 10, 2020, about the status of her employment. She learned for the first time during that communication that employer considered her to be separated from

employment. Claimant was surprised by this, as she had not resigned nor been told she would be discharged if she accepted the offer to not work. There is no indication that employer considered claimant to have committed any work-related misconduct resulting in discharge.

Claimant began searching for work again on April 11, 2020, and was available to accept any work that was offered. Employer rehired claimant effective July 20, 2020. Claimant has worked for employer in a full-time capacity since that date.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the July 27, 2020 (reference 01) unemployment insurance decision that denied benefits based on a finding claimant voluntarily quit work on March 29, 2020 for personal reasons is REVERSED. Claimant is not disqualified from benefits based on the separation from employment. She is eligible for benefits as set forth below.

In this case, the claimant did not express intent to terminate the employment relationship. Where there is no expressed intention or act to sever the relationship, the case must be analyzed as a discharge from employment. *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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 Admin. Code r. 871-24.32 provides in relevant part:

Discharge for misconduct.

(1) Definition.

- a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Employer has not carried its burden of proving claimant is disqualified from receiving benefits because of a current act of substantial misconduct within the meaning of Iowa Code section 96.5(2). There is no indication that claimant's separation from employment was due to misconduct. Claimant is therefore not disqualified from benefits based on the separation.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Claimant was not available for work for the benefit weeks ending April 4 and 11, 2020, as she chose to accept employer's offer to not work during that time and thus made herself unavailable for work. However, claimant was able to and available for work from the benefit week ending April 18, 2020 and continuing through the benefit week ending July 18, 2020. Claimant is eligible for benefits during this period, provided she otherwise meets all eligibility requirements.

DECISION:

The July 27, 2020 (reference 01) unemployment insurance decision that denied benefits based on a finding claimant voluntarily quit work on March 29, 2020 for personal reasons is REVERSED. Claimant is not disqualified from benefits based on the separation from employment. She is able to and available for work as set forth above and is eligible for benefits during that period, so long as she meets all other eligibility requirements.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

September 25, 2020
Decision Dated and Mailed

abd/scn

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.