

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JASON W CARUTHERS
Claimant

APPEAL 21A-UI-06059-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INTERNATIONAL INC
Employer

**OC: 01/10/21
Claimant: Appellant (4)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.4(3) – Able to and Available for Work

STATEMENT OF THE CASE:

On February 25, 2021, Jason Caruthers (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated February 16, 2021 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on January 11, 2021 for personal reasons.

A telephone hearing was held on May 3, 2021. The parties were properly notified of the hearing. The claimant participated personally. Manpower International Inc. (employer/respondent) was not available at the number registered for the hearing and so did not participate.

Official notice was taken of the administrative record.

ISSUE(S):

- I. Was the separation from employment 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 began his most recent assignment with employer around October 2020. Employer mandated claimant quarantine or two weeks beginning January 4, 2021, due to potential exposure to COVID-19. That quarantine period was to end January 18, 2021. However, at that time claimant did not have reliable transportation to the work site. Claimant contacted employer and notified it of this issue. It suggested he resign until he was able to secure reliable transportation, which he did. Claimant has been unable to secure reliable transportation since that time and so has not returned to work with employer or elsewhere.

Claimant filed a claim for benefits during the weeks ending January 16, 23, and 30, as well as the weeks ending February 6 and 13, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated February 16, 2021 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on January 11, 2021 for personal reasons is MODIFIED in favor of appellant. Claimant is eligible for benefits as set forth below.

Iowa Code section 96.5(1)a 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 provides in relevant part:

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:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

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 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). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

“Good cause” for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp’t Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp’t Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). 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 reason for resigning was claimant’s lack of reliable transportation. This is not a good cause reason for resignation attributable to employer. The separation from employment was therefore disqualifying and claimant is disqualified from benefits from the benefit week ending January 23, 2021. This disqualification shall continue until claimant earned wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible at that time.

However, claimant is eligible for benefits in the week ending January 16, 2021, as he filed a weekly claim for benefits that week and was unemployed due to employer holding him out of work due to potential COVID-19 exposure. The department has determined not to charge employers for periods of pandemic-related unemployment and so employer will not be charged for that week of benefits.

DECISION:

The decision dated February 16, 2021 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on January 11, 2021 for personal reasons is MODIFIED in favor of appellant. Claimant is eligible for benefits as set above.



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

May 12, 2021
Decision Dated and Mailed

abd/ol

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>.