

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALANA L NAYLOR
Claimant

HEARTLAND EMPLOYMENT SERVICES
Employer

APPEAL 20R-UI-12062-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/12/20
Claimant: Appellant (5)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On July 27, 2020, Alana Naylor (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated July 17, 2020 (reference 02) that denied benefits based on a finding claimant voluntarily quit work on June 30, 2020 for reasons not attributable to employer.

A telephone hearing was set for September 1, 2020 at 2:30 p.m. Claimant did not register a number for the hearing and a default order was entered accordingly. Claimant appealed the default order to the Employment Appeal Board (EAB). The EAB remanded for another hearing.

A telephone hearing was held on December 18, 2020. The parties were properly notified of the hearing. The claimant participated personally. Her boyfriend, Justin Bailey, participated as a witness for claimant. Heartland Employment Services LLC (employer/respondent) participated by HR Director Kathy Clarahan. Food Service Director Robin Lint participated as a witness for employer.

Employer's Exhibits 1-6 were admitted. 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?

FINDINGS OF FACT:

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

Claimant worked for employer full-time as an evening cook. Claimant's first day of employment was May 9, 2019. The last day claimant worked on the job was April 17, 2020. Claimant's immediate supervisor was Lint. Claimant separated from employment on July 14, 2020. Claimant resigned on that date.

Claimant requested and was granted a leave of absence beginning April 18, 2020. Claimant requested the leave because she had recently learned a coworker had tested positive for COVID-19. The coworker had not worked in claimant's area for approximately a week prior to testing

positive. Nonetheless, claimant was concerned that she may be exposed to the virus if she were to continue working for employer. Employer was taking reasonable precautions to stop the spread of the virus within its facility, including closing off two of its floors and allowing only specific staff in those areas.

Employer learned in late June 2020 that claimant was out of state. Claimant traveled out of state for approximately two weeks at the end of June and into early July. Employer accordingly sent claimant a letter on June 24, 2020, notifying her that it could no longer hold her position open and requesting that she respond by July 3, 2020. Claimant contacted employer on July 14, 2020 to notify it that she was resigning. Claimant resigned at that time because she was upset employer was contesting her eligibility for unemployment benefits. There was continuing work available had claimant not resigned. Claimant did not attempt to return to working for employer after resigning.

Claimant filed a weekly claim for benefits each week from the benefit week ending April 18 and continuing through the benefit week ending July 18, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated July 17, 2020 (reference 02) that denied benefits based on a finding claimant voluntarily quit work on June 30, 2020 for reasons not attributable to employer is MODIFIED with no change in effect. Claimant voluntarily resigned without good cause attributable to employer on July 14, 2020.

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.

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).

Employer has carried its burden of proving claimant's departure from employment was voluntary. However, claimant has not carried her burden of proving the voluntary leaving was for good cause attributable to employer.

Claimant contacted employer on July 14, 2020 to notify it that she was resigning. Claimant resigned at that time because she was upset employer was contesting her eligibility for unemployment benefits. The administrative law judge finds this is not a good cause reason for resigning. While claimant may have been upset by employer's decision to contest her eligibility for benefits, it had every right to do so. A reasonable person would not find its employer's decision to contest unemployment benefits to be so intolerable or detrimental as to justify resignation. Claimant is therefore disqualified from benefits from the date of resignation and continuing until she earns wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

DECISION:

The decision dated July 17, 2020 (reference 02) that denied benefits based on a finding claimant voluntarily quit work on June 30, 2020 for reasons not attributable to employer is MODIFIED with no change in effect. Claimant voluntarily resigned without good cause attributable to employer on July 14, 2020.

Claimant's separation from employment was disqualifying. Benefits are therefore denied from the date of separation and continuing until claimant has earned wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is not otherwise disqualified or ineligible. Employer's account shall not be charged.

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 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.



Andrew B. Duffelmeyer
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January 6, 2021
Decision Dated and Mailed

abd/scn