

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JASMINE D BROOKS

Claimant

APPEAL NO. 21A-UI-12422-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**WEST DES MOINES COMMUNITY SCHOOL
DISTRICT**

Employer

OC: 03/21/21

Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant, Jasmine Brooks, filed a timely appeal from the May 21, 2021, reference 01, decision that disqualified her for benefits and that held the employer's account would not be charged or benefits, based on the deputy's conclusion that the claimant voluntarily quit on August 18, 2020 without good cause attributable to the employer. After due notice was issued, a hearing was held on July 27, 2021. Claimant participated. Megan Thole represented the employer. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: WAGE-A, DBRO, KCCO, the April 12, 2020 application for PUA benefits, and the April 19, 2020 Claim Detail reference to a decision allowing PUA benefits for the period beginning March 1, 2020 through June 12, 2021.

ISSUE:

Whether the claimant's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was most recently employed by the West Des Moines Community School District as a part-time, on-call substitute teacher. This most recent period of employment commenced in August 2019. The claimant last performed work for the employer on March 9, 2020. The claimant worked 33 days in total for the employer during the 2019-2020 academic year.

On March 9, 2020, the claimant applied to a master's degree program.

After the claimant worked for the employer on March 9, 2020, the employer had no additional work for the claimant through the end of the 2019-2020 academic year that ended on June 2, 2020. This was due to the school district discontinuing in-person classes in mid-March 2020 to slow community spread of COVID-19.

On April 12, 2020, the claimant applied for Pandemic Unemployment Assistance (PUA). On April 19, 2020, the Iowa Workforce Development approved the claimant for PUA benefits for the period beginning March 1, 2020.

The 2020-2021 academic year was set to start on August 23, 2020. In anticipation of the start of the new academic year, the employer and the claimant engaged in email correspondence regarding whether the claimant would be continuing as a substitute teacher in the 2020-2021 academic year. At that time, the claimant told the employer she would not be returning to perform additional substitute teaching in the 2020-2021 academic year.

The claimant's base period for purposes of the March 21, 2021 original claim consists of the fourth quarter of 2019 and the first, second, and third quarters of 2020. This employer and Des Moines Independent Community School District are the only base period employers. During the base period, the claimant performed substitute teaching for the Des Moines district only during the fourth quarter of 2019 for which she was paid \$797.00.

REASONING AND CONCLUSIONS OF LAW:

Iowa Administrative Code rule 871-24.1(113) characterizes the different types of employment separations as follows:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

c. Discharge. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.

d. Other separations. Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See Iowa Administrative Code rule 871-24.25.

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 Administrative Code rule 871-24.26(19) provides as follows:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 871—24.24(96) are controlling in the determination of suitability of work. *However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.*

[Emphasis added.]

Where claimant voluntarily leaves employment to go to school, the claimant is presumed to have voluntarily quit without good cause attributable to the employer. Iowa Admin. Code rule 871-24.25(26).

Based on the above-referenced Administrative Code rules, the administrative law judge must conclude that the claimant voluntarily quit effective August 18, 2020 without good cause attributable to the employer. As a part-time, on-call substitute teacher, the claimant was not guaranteed work or hours with the West Des Moines district. Accordingly, the lack of available work during the mid-March 2020 to the June 2, 2020 end of the 2019-2020 academic year did not amount to a layoff. The claimant was a substitute school employee subject to the provisions of Iowa Code section 96.4(5). Because the claimant declined on August 18, 2020 to continue as a part-time, on-call substitute teacher during the 2020-2021 academic year, her separation from the employment was a voluntary quit without good cause attributable to the employer. In addition, the evidence establishes the claimant elected to separate from the employer to further her academic pursuits, which would also cause the separation to be without good cause attributable to the employer.

An individual who voluntarily quits part-time employment without good cause attributable to the employer and who has not re-qualified for benefits by earning 10 times her weekly benefit amount in wages for insured employment, but who nonetheless has sufficient other wage credits to be eligible for benefits, may receive reduced benefits based on the other base period wages. See Iowa Admin. Code r. 871-24.27.

The claimant lacks sufficient other base period wage credits to be monetarily eligible for reduced benefits.

Based on the voluntary quit, the claimant is disqualified for regular benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.

DECISION:

The May 21, 2021, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The quit was effective August 18, 2020. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.



James E. Timberland
Administrative Law Judge

October 26, 2021
Decision Dated and Mailed

jet/scn

NOTE TO CLAIMANT:

This decision determines you are not eligible for regular unemployment insurance benefits under state law. 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.

If you do not qualify for regular unemployment insurance benefits under state law and are unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>.