

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MONTO J GBALEA
Claimant

WEST LIBERTY FOODS LLC
Employer

APPEAL 20A-UI-15023-S1-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/09/20
Claimant: Appellant (1/R)

Iowa Code § 96.5-2-a – Discharge for Misconduct
Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Monto Gbalea (claimant) appealed a representative's November 20, 2020, decision (reference 03) that concluded ineligibility to receive unemployment insurance benefits due to voluntarily quitting with the west Liberty Foods (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 20, 2021. The claimant participated personally. The employer participated by Karyn Goldensoph, Human Resources Supervisor. 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 November 11, 2019, as a full-time coffiner. On March 11, 2020, the claimant went to the human resources office and said he was quitting because he was "leaving". The claimant did not feel well. The employee understood the claimant to say he was "moving". The claimant signed a resignation form that said he was "moving". The employer did not know the claimant was leaving because he felt ill. Continued work was available with the employer had the claimant not resigned.

Later, the claimant wondered if he had Covid-19. He never saw a physician or sought medical treatment. He felt well enough to return to work on July 15, 2020. The claimant did not return to the employer and ask for work. Work is still available.

The claimant filed for unemployment insurance benefits with an effective date of August 4, 2019. His weekly benefit amount was determined to be \$518.00. He opened a new claim with an effective date of August 9, 2020. His new weekly benefit amount was determined to be \$531.00.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code section 96.5(1)d 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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

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). A claimant is not disqualified for leaving employment if he or she (1) left employment by reason of illness, injury or pregnancy; (2) on the advice of a licensed and practicing physician; (3) and immediately notified the employer or the employer consented to the absence; (4) and when certified as recovered by a physician, the individual returned to the employer and offered services but the regular or comparable suitable work was not available. *Area Residential Care, Inc. v. Iowa Department of Job Service*, 323 N.W.2d 257 (Iowa 1982). A "recovery" under Iowa Code Section 96.5-1-d means a complete recovery without restriction. *Hedges v. Iowa Department of Job Service*, 368 N.W.2d 862 (Iowa App. 1985).

The claimant left work because he felt sick but did not seek the advice of a physician. The employer accepted his resignation but did not know he was leaving due to a medical issue. The claimant has failed to provide the employer with certification that he has recovered. In addition the claimant has failed to offer his services to the employer. The claimant has failed to meet the requirements of the statute and, therefore, is not eligible to receive unemployment insurance benefits.

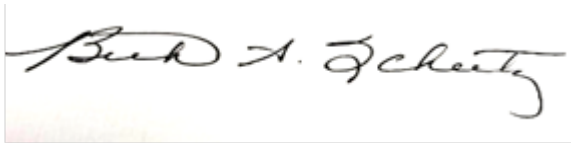
The issue of whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

DECISION:

The representative's November 20, 2020, decision (reference 03) 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>.



Beth A. Scheetz
Administrative Law Judge

February 5, 2021
Decision Dated and Mailed

bas/scn