

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JESSICA J HAHN**  
Claimant

**APPEAL 22A-UI-00398-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HANDICAP VILLAGE**  
Employer

**OC: 10/24/21  
Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

Jessica J Hahn, the claimant/appellant filed an appeal from the November 30, 2021 (reference 01) unemployment insurance (UI) decision that denied benefits because of a November 11, 2021 voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on January 25, 2022. Ms. Hahn participated and testified. The employer participated through Ashton Tucker, human resources manager, and Nancy Elder, talent recruitment and retention specialist.

**ISSUE:**

Did Ms. Hahn voluntarily quit without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Hahn began working for the employer on December 28, 2005. She worked as a full-time staff scheduler. She worked from home permanently and was a salaried employee. Ms. Hahn worked a 24-hour shift every 4 days.

Ms. Hahn began Family Medical Leave Act (FMLA) leave on July 27, 2021. She had surgery on October 11. Ms. Hahn and the employer communicated every two weeks about her situation. During their September 2 update Ms. Anderson told Ms. Hahn that her position had been eliminated. The employer had been considering restructuring the scheduling department and made a final decision while Ms. Hahn was on FMLA leave. Ms. Anderson told Ms. Hahn that she could apply for a supported community living supervisor (SCLS) position, or any other open position with the company. The SCLS position is an hourly position with a varied schedule, including some on-call shifts, and requires in-person work at one of employer's locations. The closest location to Ms. Hahn's home was at least 18 miles. Ms. Hahn had worked as a SCLS two promotions before her scheduler job. The employer did not have any work-from-home positions and did not have any positions with Ms. Hahn's scheduler position schedule. Ms. Tucker testified that she told Ms. Hahn about the SCLS position because it was most like the

staff scheduler position, and that the employer would have paid her an hourly rate for the SCLS job equal to the salary for her scheduler job converted to hourly pay.

Ms. Hahn's doctor released her to return to work on October 26. Ms. Hahn informed Ms. Tucker and asked about her status as an employee. Ms. Hahn specifically asked if she was laid off. Ms. Tucker initially did not answer the question, but would respond that the employer had other positions for which Ms. Hahn could apply. Ms. Hahn continued to press Ms. Tucker about whether she was laid off. Ms. Tucker eventually told Ms. Hahn that she was technically laid off and referred Ms. Hahn to the interim chief human resources officer.

Ms. Hahn had applied for a different position with the company that she thought was comparable to her scheduler job, and had an interview for that position. Ms. Hahn spoke with the interim chief human resources officer on November 1. The interim chief human resources officer told Ms. Hahn that she did not get the position for which she had applied, and that the only position the employer could offer her was the SCLS position. Ms. Hahn told the interim chief human resources officer that SCLS position was not comparable to her staff scheduler job, which had been eliminated. Ms. Hahn stated that she would file for UI benefits and continue to look at position with the company that were comparable to her staff scheduler position.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes Ms. Hahn was laid off due to lack of work.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits:

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. 871-24.1(113)a provides:

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.

The decision in this case rests, at least in part, on the credibility of the witnesses. It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness

has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The findings of fact show how the administrative law has resolved the disputed factual issues in this case. The administrative law judge assessed the credibility of the witnesses who testified during the hearing, considered the applicable factors listed above, and used his own common sense and experience.

In this case, the employer did not have work for Ms. Hahn to do because it eliminated the position in which she worked. After eliminating her job, the employer offered Ms. Hahn a job that she previously held with different hours, different work location, and hourly pay instead of salaried paid. Ms. Hahn chose not to be demoted, after the employer eliminated her job. The employer also told Ms. Hahn that she could go back to step one and apply for other jobs with the company. Ms. Hahn did apply for a position that she felt was comparable, but the employer did not hire her. Ms. Hahn did not quit. The employer laid her off when it eliminated her position. Ms. Hahn's separation from employment was attributable to a lack of work by the employer. Benefits are allowed.

**DECISION:**

The November 30, 2021, (reference 01) unemployment insurance decision is reversed. Ms. Hahn was laid off due to a lack of work. Benefits are allowed, provided she is otherwise eligible.



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February 16, 2022  
Decision Dated and Mailed

dz/mh