

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**WANDREKA PRIMAS
4302 ALGOA AVE
BAKER LA 70714-4620**

**WELLS FARGO BANK NA
c/o BARNETT ASSOCIATES
PO BOX 7340
GARDEN CITY NY 11530**

**DIA APPEAL NO. 20IWDUI0084
IWD APPEAL NO. 20A-UI-02863**

**ADMINISTRATIVE LAW JUDGE
DECISION**

APPEAL RIGHTS:

This Decision Shall Become Final, unless within fifteen (15) days from the mailing date below the administrative law judge's signature on the last page of the decision, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to:

***Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
or
Fax (515) 281-7191***

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

The name, address and social security number of the claimant.

A reference to the decision from which the appeal is taken.

That an appeal from such decision is being made and such appeal is signed.

The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

ONLINE RESOURCES:

UI law and administrative rules: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-law-and-administrative-rules>

UI Benefits Handbook: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-benefits-handbook-guide-unemployment-insurance-benefits>

Handbook for Employers and forms: <https://www.iowaworkforcedevelopment.gov/employerforms>

Employer account access and information: <https://www.myiowaui.org/UITIPTaxWeb/>

National Career Readiness Certificate and Skilled Iowa Initiative: <http://skillediowa.org/>

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

WANDREKA PRIMAS
Claimant

DIA APPEAL NO. 20IWDUI0084
IWD APPEAL NO. 20A-UI-02863

WELLS FARGO BANK NA
Employer

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/26/20
Claimant: Appellant (1R)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.3(7)– Overpayment

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the March 27, 2020 (reference 04) unemployment insurance decision that denied benefits based upon her voluntarily quitting work without good cause attributable to the employer. The parties were properly notified of the hearing. A telephone hearing was held on April 28, 2020. The claimant participated personally. The employer, Wells Fargo Bank, did not participate.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer? Was the claimant overpaid benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as an Operations Clerk since January 27, 2020. Claimant's last day at work was on January 30, 2020. Her employment ended when she voluntarily quit on March 6, 2020.

Prior to claimant being hired full-time, claimant discussed with her employer that she needed to spend some time in Louisiana to care for her grandmother. Claimant's supervisor, Brittany Easton, informed claimant that she could not take FMLA and did not have paid time off available, but may request personal leave to care for her grandmother. Claimant requested personal leave beginning February 7, 2020. It was claimant's understanding that her personal leave request had been approved and therefore, she traveled to Louisiana to care for her grandmother.

Sometime in February 2020, claimant's supervisor contacted claimant and informed her that her leave could not be "extended" into March 2020. Claimant informed her supervisor that she would return to work on February 24, 2020. On February 26, 2020, claimant emailed her supervisor and stated as follows:

As we discuss [sic] last week, I was expected to return on Monday February 24, 2020, but the process of getting my grandmother care and her being in and out of the hospital is taking longer than expected. I really hoped to returned [sic] to work this week, but I will not be able to do so. I think that I may have to make the decision to resign from my position, I really do not want to make that decision because I worked hard to get to this point, but because of the situation that I'm faced with it is putting me in the position to make that decision.

(Email dated February 26, 2020).

On March 4, 2020, claimant's supervisor emailed her and asked claimant whether she was resigning or returning to work. Claimant's supervisor indicated that "corrective action" may be taken due to claimant's "attendance occurrences." (Email dated March 4, 2020). On March 6, 2020, claimant emailed her supervisor and resigned from her position at Wells Fargo. (Email dated March 6, 2020).

Claimant's grandmother has not recovered from her medical conditions and she continues to require claimant's care in Louisiana.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). 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); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

First it must be determined whether claimant quit or was discharged from employment. Here, claimant had an intention to quit and carried out that intention by tendering her written resignation on March 6, 2020. As such, claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). Leaving for compelling personal reasons but for a period exceeded ten working days is not good cause. Iowa Admin Code r. 871-24.25.

Iowa Code § 96.5(1)c provides that a claimant may be eligible for benefits if the employee leaves without good cause and it is found that:

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer, provided, however, that during such period the individual did not accept any other employment.

Iowa Admin Code r. 871-24.26(8) defines "immediate family" as "a collective body of persons who live under one roof and under one head or management, or a son or daughter, stepson, stepdaughter, father, mother, father-in-law, mother-in-law."

In this case, on January 30, 2020, claimant left her employment to take care of her grandmother in Louisiana. She said she would return to work on February 24, 2020. On March 6, 2020,

eleven days later, she tendered her written resignation because she still needed to provide care to her grandmother. Claimant's grandmother lives in Louisiana, not in Claimant's home, and therefore does not constitute claimant's "immediate family" under Iowa law. Further, claimant's grandmother has not sufficiently recovered to the point where she does not need claimant's care. As such, claimant has not met the requirements of Iowa Code § 96.5(1)c. While claimant's leaving the employment may have been based upon compelling personal reasons, claimant did not return to work after ten days, and thus her resignation was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The March 31, 2020 (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits shall be withheld in regards to this employer until such time as claimant is deemed eligible.

REMAND:

The issue of whether the claimant has been overpaid benefits is remanded to the Benefits Bureau of Iowa Workforce Develop for an initial investigation and determination consistent with this decision.



Rachel D. Morgan
Administrative Law Judge

4/29/20

Decision Dated and Mailed

RDM/lb

CC: Wandreka Primas, Claimant (by first class mail)
Wells Fargo Bank NA, Employer (by first class mail)
Nicole Merrill, IWD (email)
Joni Benson, IWD (email)

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>.