

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**DAVID L. ZITTERICH**  
Claimant

**HY-VEE, INC.**  
Employer

**APPEAL 20A-UI-05053-BH-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 3/29/20**  
**Claimant: Appellant (1)**

Iowa Code section 96.5(1) – Voluntary Quit  
Iowa Admin. Code r. 871-24.25 – Voluntary Quit Without Good Cause  
Iowa Admin. Code r. 871-24.26 – Voluntary Quit With Good Cause

**STATEMENT OF THE CASE:**

Zitterich filed an appeal from the **\*\*May 29, 2020\*\***, (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on June 24, 2020. Zitterich participated and testified. Hy-Vee, Inc. (Hy-Vee) participated through employer representative Erin Bewley. Kelly Nieland, a human resources manager for Hy-Vee, also testified. Claimant's Exhibit A was admitted into evidence.

**ISSUE:**

Was Zitterich's separation from employment with Hy-Vee a layoff, discharge for misconduct or voluntary quit without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the undersigned finds the following facts.

Hy-Vee hired Zitterich on April 20, 2017. At the time, Zitterich lived at the same residence he did at the time he quit his job with Hy-Vee. He worked part time as a cook at the Hy-Vee in Spencer. Zitterich had a commute of about 45 minutes each way.

Zitterich gave oral notice to Hy-Vee that he was quitting his job two or three weeks before his last day worked on November 30, 2019. He also gave Hy-Vee a written letter. Ongoing work was available at Hy-Vee if Zitterich had not quit. Hy-Vee would rehire him because he was a good worker who left employment on good terms with the business.

Zitterich quit his job with Hy-Vee to get a job closer to home. He wanted a shorter commute. Zitterich applied at a convenience store, where he intended to work, but had not received a job offer as of the time of hearing.

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

For the reasons that follow, the undersigned concludes Zitterich's quit was without good cause attributable to Hy-Vee.

Iowa Code section 96.5(1) states an individual is disqualified for unemployment insurance benefits if the individual left work voluntarily without good cause attributable to the individual's employer. Iowa Administrative Code rule 24.25 states:

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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10.

Under the rule, it is presumed the employee quit without good cause attributable to the employer if the employee:

- Left to seek other employment but did not secure other employment. Iowa Admin. Code r. 871-24.25(3)
- Left due to the commuting distance to the job; however, the claimant was aware of the distance when hired. Iowa Admin. Code r. 871-24.25(30).

Thus, it is presumed under the law that an employee quit his job without good cause attributable to the employer if he quit to seek other employment, but did not secure other employment, or if he quit due to the commuting distance, of which he was aware at the time of hire. In the current case, Zitterich quit his job to seek other employment, which he did not secure, and because of the commuting distance, which was the same on the date of hire as on the date of resignation.

While Zitterich's leaving may have been because of good personal reasons, it was not for good cause attributable to Hy-Vee according to Iowa law. Regular unemployment insurance benefits under state law are denied.

## **DECISION:**

### **Regular Unemployment Insurance Benefits Under State Law**

The May 29, 2020, (reference 01) unemployment insurance decision is affirmed. Zitterich voluntarily left his employment without good cause attributable to Hy-Vee. Benefits are withheld until such time as Zitterich has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

### **Pandemic Unemployment Assistance (PUA) Under the Federal CARES Act**

Even though Zitterich is not eligible for regular unemployment insurance benefits under state law, he may be eligible for federally funded unemployment insurance benefits under the CARES Act. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. This decision does not address when Zitterich is eligible for PUA. For a decision on such eligibility, Zitterich must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.



---

Ben Humphrey  
Administrative Law Judge

July 2, 2020  
Decision Dated and Mailed

bh/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 currently 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 about how to apply for PUA, go to:

<https://www.iowaworkforcedevelopment.gov/pua-information>