

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PENNY J MERCADO
Claimant

PALMER & COMPANY
Employer

APPEAL 20A-UI-03971.J1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/29/20
Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

On May 12, 2020, the Claimant filed an appeal from the May 5, 2020, (reference 01) unemployment insurance decision that denied benefits based on voluntary quitting. The parties were properly notified about the hearing. A telephone hearing was held on May 26, 2020. Claimant Penny Mercado participated. Liz Boone participated as a witness. Employer did not participate.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?
Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on September 2010. Claimant last worked as a full-time production worker on March 12, 2020. Claimant was separated from employment on March 13, 2020 when she resigned. Claimant provided her employer a two week written notice of her intent to resign the last week of February 2020. The written notice stated that claimant was resigning to be able to care for her father.

Claimant had applied for and was offered a job by Dakota Dunes Surgical Center on February 16, 2020. Claimant accepted the position of dietary aide. Claimant started her employment with Dakota Dunes Surgical Center on March 16, 2020. Claimant was placed on furlough by Dakota Dunes Surgical Center due to COVID-19 and the lack of surgical procedures.

Ms. Boone, the human resource director at Dakota Dunes Surgical Center, testified that claimant was offered full time employment on February 16, 2020. Claimant accepted the offer of employment. Ms. Boone said claimant informed her that she needed to provide two week notice to her employer. Ms. Boone testified that claimant started work and was furloughed due to

COVID-19. Claimant has been recalled to work some brief periods of time when there has been a sufficient patient load.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge finds that the claimant voluntarily left the employment to accept employment elsewhere.

Iowa Code §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. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

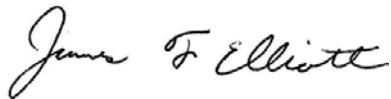
Even though the separation was without good cause attributable to the employer, and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave the employment in order to accept other employment t. As such, benefits are allowed and the account of the employer shall not be charged.

There is no evidence of misconduct by the claimant in the record.

DECISION:

The May 5, 2020, (reference 01) unemployment insurance decision is reversed in favor of the appellant. The claimant voluntarily left the employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (account number 004292-000) shall not be charged.

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>.



James Elliott
Administrative Law Judge

June 1, 2020
Decision Dated and Mailed

je/scn