

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**BOBBI L KELLOGG**  
Claimant

**LINK SNACKS INC**  
Employer

**APPEAL 21R-UI-11700-S2-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/30/20**  
**Claimant: Appellant (3R)**

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the December 21, 2020, (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit. A telephone hearing was scheduled for March 3, 2021, pursuant to due notice. On March 9, 2021, the administrative law judge issued a decision dismissing the appeal because the claimant did not register for the hearing within fifteen minutes of the start time. Claimant appealed the decision to the Employer Appeal Board (EAB), who remanded the appeal for a new hearing. A telephone hearing was held on July 14, 2021, pursuant to due notice. Claimant Bobbi L. Kellogg participated and testified. Employer did not register for the hearing and did not participate. Claimant's Exhibits A – F were received. The administrative law judge took official notice of the administrative record.

**ISSUE:**

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 has been employed full-time as a line worker and backup driver since March 25, 2019.

Claimant suffered an allergic reaction to the material in the masks employer required employees to wear. As a result, she took a leave of absence from work. Claimant filed her initial claim for benefits effective August 30, 2020. When claimant filed her initial claim, she accidentally clicked on "voluntary quit" rather than "temporary wage loss." She has remained employed by employer since her hire date and has not resigned her employment.

The administrative record shows claimant filed for benefits for the four-week period ending September 26, 2020.

There has been no initial investigation or decision regarding the issue of whether claimant is able to and available for work effective August 30, 2020.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant has not separated from employment. Benefits are withheld.

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.

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). 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).

Here, the evidence in the record establishes that claimant has not separated from employment. Claimant has remained an active full-time employee of the employer since March 25, 2019, her date of hire.

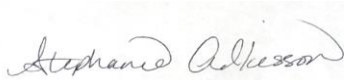
This matter will be remanded for investigation into whether claimant was able to and available for work effective August 30, 2020.

**DECISION:**

The December 21, 2020, (reference 01) unemployment insurance decision is modified in favor of the respondent/employer. Claimant has not separated from employment. Based solely on that finding, it does not appear she is eligible for benefits.

**REMAND:**

The issue of whether claimant was able to and available for work effective August 30, 2020 is remanded to the Benefits Bureau of Iowa Workforce Development for an investigation and determination.



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Stephanie Adkisson  
Administrative Law Judge  
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July 26, 2021  
Decision Dated and Mailed

sa/mh