

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ERIKA L MILLER
Claimant

APPEAL 21A-UI-07346-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

QPS EMPLOYMENT GROUP INC
Employer

**OC: 01/03/21
Claimant: Respondent (1R)**

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment
Iowa Admin. Code r. 871-24.10 – Employer Participation in Fact-Finding Interview
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
PL 116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

QPS Employment Group, Inc., the employer/appellant, filed an appeal from the March 2, 2021, (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified of the hearing. A telephone hearing was held on June 22, 2021. The employer participated through Jennifer Yang, unemployment specialist and Taisha Graham, branch supervisor. Ms. Miller participated and testified. Official notice was taken of the administrative record.

ISSUE:

Was Ms. Miller discharged for disqualifying job-related misconduct or did she voluntarily quit without good cause attributable to the employer?

Was Ms. Miller overpaid benefits?

If so, should she repay the benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Miller began working for the employer on August 18, 2020. She worked as a full-time production work on assignment to Hillphoenix Specialty Products.

Ms. Miller accepted a full-time job with Hillphoenix. Her first day at Hillphoenix was November 24. Hillphoenix told the employer that Ms. Miller would begin working full-time with Hillphoenix. Ms. Miller took the new job because it was a full-time, permanent job.

In January 2021, Ms. Miller was exposed to a family member who tested positive for COVID-19. Ms. Miller told her employer, Hillphoenix, and self-quarantined for two weeks from January 3,

2021 through January 16, 2021. The issue of Ms. Miller's availability for work during these two weeks has not been investigated by Iowa Workforce Development.

REASONING AND CONCLUSIONS OF LAW:

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

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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

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). 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).

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.

(emphasis added).

In this case, Ms. Miller voluntarily quit for the sole purpose of accepting better employment with Hillphoenix. Ms. Miller's voluntarily quit was not disqualifying because she quit for the sole purpose of accepting an offer of other employment. Benefits are allowed, provided she is otherwise eligible. No charges shall accrue to the employer's account pursuant to Iowa Admin. Code r. 871-23.43(5).

DECISION:

The March 2, 2021, (reference 01) unemployment insurance decision is affirmed. Ms. Miller's separation from employment with this employer is not disqualifying because she voluntarily quit for the sole purpose of accepting better employment. The employer's account shall not be charged.

REMAND:

The issue of Ms. Miller's availability for work from January 3, 2021 through January 16, 2021 is remanded to the Benefits Bureau of Iowa Workforce Development for investigation and a decision.



Daniel Zeno
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

July 2, 2021
Decision Dated and Mailed

dz/lj