

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**KATHY BOLUMBU**

Claimant

**APPEAL 21A-UI-11534-AR-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WEST LIBERTY FOODS LLC**

Employer

**OC: 08/23/2020**

**Claimant: Appellant (1R)**

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

**STATEMENT OF THE CASE:**

On April 14, 2021, claimant, Kathy Bolumbu, filed an appeal from the April 6, 2021, reference 02, unemployment insurance decision that denied benefits based upon the determination that claimant quit her employment with the employer, West Liberty Foods, LLC, without showing good cause for having done so. The parties were properly notified about the hearing held by telephone on July 13, 2021. The claimant participated personally. The employer participated through Mira Zamudio. CTS Language Link provided language services for the claimant.

**ISSUE:**

Did the claimant quit her employment without good cause attributable to the employer, or did the employer discharge claimant for job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as wing rotation beginning on July 20, 2020, and was separated from employment on November 25, 2020, when she was discharged.

On August 4, 2020, claimant became ill at home and needed to be hospitalized. She remained ill for some time thereafter. Shortly after the employer became aware of claimant's hospitalization, it sent her forms to request accommodations. These forms required completion by claimant's doctor. Claimant never sent the forms back to the employer. The employer retained claimant and noted in its system that she was on leave due to illness. It reached out to claimant via phone, with an interpreter, a number of times to attempt to obtain documentation of her illness and continued need for leave, but it did not receive any response from claimant. As a result, the employer coded her absences as no call/no shows for the three days in advance of November 25, 2020, and terminated claimant on November 25, 2020, because it had not received any documentation from claimant regarding her illness and she had been absent for a long period of time.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was a voluntary quit without good cause attributable to the employer.

Iowa Code § 96.5(1)d 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:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871—24.25(35) provides:

Voluntary quit without good cause. 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. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (d) Fully recover so that the claimant could perform all of the duties of the job.

The court in *Gilmore v. Empl. Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004) noted that:

"Insofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." *White v. Emp't Appeal Bd.*, 487 N.W.2d 342, 345 (Iowa 1992) (citing *Butts v. Iowa Dep't of Job Serv.*, 328 N.W.2d 515, 517 (Iowa 1983)).

In 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement added to rule 871—24.26(6)(b), the provision addressing work-related health problems. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Though claimant apparently did not intend to sever the employment relationship with the employer, she also did not take steps to retain her employment. The employer credibly testified that it allowed a long period of leave without medical documentation. It also received no response to its requests for medical documentation. Claimant did not maintain regular contact with the employer despite both mail and phone contacts by the employer. Because claimant did not take steps to retain her employment, her separation is a voluntary quit. Furthermore, because she did not fully recover and return to offer services to the employer upon recovery, the separation was without good cause attributable to the employer. Benefits are denied.

**DECISION:**

The April 6, 2021, (reference 02) unemployment insurance decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

**REMAND:**

The issue of whether claimant was able to and available for work as of the week ending August 29, 2020, is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.



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Alexis D. Rowe  
Administrative Law Judge

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July 23, 2021  
Decision Dated and Mailed

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