

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JEANETTE STANDLEY**  
Claimant

**APPEAL 20A-UI-03834-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FRG OF IOWA LLC**  
Employer

**OC: 03/15/20**  
**Claimant: Appellant (4)**

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Iowa Code § 96.5(1)g – Voluntary Leaving/Requalification  
Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)

**STATEMENT OF THE CASE:**

The claimant/appellant, Jeanette Standley, filed an appeal from the April 29, 2020 (reference 02) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on May 27, 2020. The claimant participated personally. The employer, FRG of Iowa LLC., participated through Pam Nading, unemployment compensation consultant. Jose Morales, district manager, also testified.

The administrative law judge took official notice of the administrative records including the fact-finding worksheet. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Has the claimant requalified for benefits since the separation from this employer?  
Did claimant voluntarily quit the employment with good cause attributable to employer?  
Is the claimant overpaid benefits?  
Is the claimant eligible for Federal Pandemic Unemployment Compensation?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed part-time as a team member/cashier and was separated from employment on March 15, 2019.

At the initial fact-finding interview, the claimant reported she voluntarily quit the employment and told her manager, Shelby Engle (See administrative record). She indicated a doctor did not advise her to quit but that it was due to anxiety. The employer records reflect the claimant voluntarily quit the employment and was not discharged. While Ms. Engle no longer works with

the employer, she was contacted by the employer in connection with the claim and informed employer that claimant had quit. Mr. Morales stated he managed Ms. Engle and his recollection from the time of the claimant's separation was that she voluntarily quit the employment.

At the hearing, the claimant asserted she was discharged by Ms. Engle. According to the claimant, she attempted to call in and Ms. Engle told her if she did not work, she would be fired, so she went in and worked her shift, and was later fired by Ms. Engle without a reason. She acknowledged she had no warnings before separation.

After working for this employer, she worked for Peopleready Inc., Get Air Des Moines LLC., Marketsource Inc., Up Front Marketing LLC., and Hy-Vee Inc. (See administrative record- Wage A). She has earned ten times her weekly benefit amount (\$354.00) since separating with this employer on March 15, 2019. (See administrative record- Wage A).

Despite being denied benefits through the initial decision, the decision was made by Iowa Workforce Development to release funds of claimants while their claims were pending due to the backlog in appeals caused by the recent COVID 19 outbreak. Claimant was one of the individuals whose funds were released pending the initial decision. The administrative record shows, claimant filed for and received a total of \$714.00 in unemployment insurance benefits for the weeks between March 15, 2020 and April 25, 2020. The claimant also received federal unemployment insurance benefits through Federal Pandemic Unemployment Compensation (FPUC). Claimant received \$1,800.00 in federal benefits through April 25, 2020.

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

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit the employment without good cause attributable to the employer. However, she has also requalified for benefits since separation with this employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

The claimant has the burden of proof to establish she quit with good cause attributable to the employer, according to Iowa law. "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. Industrial Relations Commission*, 277 So.2d 827 (Fla. App. 1973). Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code section 96.2. *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993)(citing *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986) "[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.*

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all,

part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.* At the hearing, the claimant denied she quit the employment and stated she was discharged. This contradicted the statement she made to the initial fact-finder, the employer's records, or Mr. Morales' recollection of her separation, or discussion with the claimant's prior supervisor. The administrative law judge found the claimant's initial statement, combined with the employer's evidence to be more credible than the claimant's denial at the hearing of voluntarily quitting. The administrative law judge concludes the claimant was not discharged, but rather voluntarily quit the employment. After assessing the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge finds the weight of the evidence in the record establishes claimant has not met her burden of proof to establish she quit for good cause reasons within Iowa law.

Iowa Admin. Code r. 871-24.25(27) 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:

(27) The claimant left rather than perform the assigned work as instructed.

The claimant failed to establish that she voluntarily quit the employment for a good cause reason according to Iowa law, and therefore, she would be disqualified from benefits until she had worked in and been paid wages for insured work equal to 10 times her weekly benefit amount.

Iowa Code section 96.5(1)(g) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work

equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on Form 65-5323, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

This rule is intended to implement Iowa Code section 96.5(1)g.

Inasmuch as the claimant resigned without good cause attributable to employer, the separation is disqualifying. The claimant has requalified for benefits since the separation. Thus, she is eligible for benefits, provided she meets all other requirements. The account of this employer is **not** chargeable for any benefits.

Because she is eligible for benefits, there is no overpayment of regular benefits. The final issue to address is her eligibility for Federal Pandemic Unemployment Compensation.

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment.--In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

Here, the claimant is qualified for receiving regular unemployment insurance (UI) benefits and therefore, also eligible for Federal Pandemic Unemployment Compensation, provided she meets all other requirements.

**DECISION:**

The April 29, 2020, (reference 02), unemployment insurance decision is modified in favor of the claimant/appellant. The claimant voluntarily left the employment without good cause attributable to the employer and has requalified for benefits. Benefits are allowed, provided she is otherwise eligible. The account of this employer shall not be charged.

There is no overpayment of benefits, and the claimant is eligible for Federal Pandemic Unemployment Compensation, provided she meets all other requirements.



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May 29, 2020  
Decision Dated and Mailed

jlb/mh