

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**LORI M MCWILLIAMS**  
Claimant

**MERCER HEALTH & BENEFITS ADMINIST**  
Employer

**APPEAL 20A-UI-03963-AW-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 03/22/20**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the May 5, 2020 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on May 29, 2020, at 3:00 p.m. Claimant participated. Employer did not participate. Claimant's Exhibits 1 and 2 were admitted. Official notice was taken of the administrative record.

**ISSUES:**

Whether claimant's separation was a voluntary quit without good cause attributable to employer.  
Whether claimant was overpaid benefits.  
Whether claimant is eligible for Federal Pandemic Unemployment Compensation.

**FINDINGS OF FACT:**

As claimant was the only witness, the administrative law judge makes the following findings of fact based solely upon claimant's testimony: Claimant was employed as a full-time Claims Adjudicator from February 2, 2016 until her employment with Mercer ended on June 9, 2019. Claimant began a medical leave of absence in March 2019. In late May 2019, claimant received a letter from employer that stated if claimant did not contact employer by a certain date then she would be considered to forfeit her position. Claimant responded to the letter by tendering her resignation. The health issues that led to claimant's leave of absence were not work related. Claimant has fully recovered from the health issues. Claimant has not returned to employer and offered to perform services. Claimant listed other factors that contributed to her resignation. Employer lost the client to whom claimant was assigned; as a result, claimant had to work for various departments as needed. Claimant did not get a raise for two and a half years. Claimant felt employer was hassling her about returning to work while she was on leave.

The administrative record reflects that claimant filed for and has received regular unemployment insurance (UI) benefits in the gross amount of \$2,010.00 for the five-week period between

March 22, 2020 and April 25, 2020. In addition to regular unemployment insurance benefits, claimant also received Federal Pandemic Unemployment Compensation (FPUC) in the gross amount of \$2,400.00 for the four-week period between March 29, 2020 and April 25, 2020.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit her employment without good cause attributable to employer. Benefits are denied.

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

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). Where a claimant gives numerous reasons for leaving employment the agency is required to consider all stated reasons which might combine to give the claimant good cause to quit in determining any of those reasons constitute good cause attributable to the employer. *Taylor v. Iowa Dep't of Job Serv.*, 362 N.W.2d 534 (Iowa 1985).

Iowa Admin. Code r. 871-24.25(21), (35) provide:

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:

(21) The claimant left because of dissatisfaction with the work environment.

(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.

Iowa Admin Code r. 871-24.26(1), (4), (6)(a) provide:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

(4) The claimant left due to intolerable or detrimental working conditions.

(6) Separation because of illness, injury, or pregnancy.

a. Nonemployment related separation. The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.

Claimant's resignation is both evidence of her intention to sever the employment relationship and an overt act of carrying out her intention. Claimant was asked to contact employer or she would be considered to have quit her job; claimant was not told that she needed to return to work or she would be terminated. Claimant's resignation was voluntary. Claimant provided multiple reasons for quitting her job. The administrative law judge has considered all of them and finds that none of them constitute good cause attributable to the employer. Claimant had not received a raise in two and a half years, so that was not the proximate cause of her quitting her employment. While claimant fully recovered from her health issue, she did not report to employer and offer to perform services. The change in claimant's job duties by being transferred to other departments as needed does not rise to the level of a substantial change in the contract of hire. None of the circumstances claimant describes rises to the level of intolerable working conditions. Claimant has not met her burden of proving she voluntarily quit her employment for good cause attributable to employer. Benefits are denied.

The next issue to be determined is whether claimant has been overpaid benefits. For the reasons that follow, the administrative law judge concludes claimant was overpaid benefits, which must be repaid.

Iowa Code section 96.3.(7) states:

*7. Recovery of overpayment of benefits.*

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from

any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

Because the disqualifying decision has been affirmed, benefits were paid to which claimant was not entitled. The administrative law judge concludes that claimant has been overpaid UI in the gross amount of \$2,010.00 for the five-week period between March 22, 2020 and April 25, 2020. Claimant is required to repay those benefits.

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...

Because claimant is disqualified from receiving UI, claimant is also disqualified from receiving FPUC. The administrative law judge concludes that claimant has been overpaid FPUC in the gross amount of \$2,400.00 for the four-week period between March 29, 2020 and April 25, 2020. Claimant is required to repay those benefits.

*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>.

**DECISION:**

The May 5, 2020 (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit without good cause attributable to employer. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. Claimant has been overpaid regular unemployment insurance benefits in the gross amount of \$2,010.00 for the five-week period between March 22, 2020 and April 25, 2020, which must be repaid. Claimant has been overpaid Federal Pandemic Unemployment Compensation in the gross amount of \$2,400.00 for the four-week period between March 29, 2020 and April 25, 2020, which must be repaid.



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Adrienne C. Williamson  
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June 19, 2020  
Decision Dated and Mailed

acw/sam