

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AKOUWAVI SOEDO
Claimant

PACIFICA HEALTH SERVICES LLC
Employer

APPEAL 20A-UI-09542-HP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/26/20
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

Claimant Akouwavi Soedo filed an appeal from a July 29, 2020 (reference 01) unemployment insurance decision that denied benefits for voluntarily quitting her work with Pacifica Health Services LLC (“Pacifica”) on May 9, 2020. The parties were properly notified of the hearing. A telephone hearing was held on September 24, 2020. CTS Language Clinic provided Ewe interpretation services during the hearing. Soedo appeared and testified. Her daughter, Afi Atchale also testified on her behalf. No one appeared on behalf of Pacifica. I took administrative notice of the claimant’s unemployment insurance benefits records maintained by Iowa Workforce Development.

ISSUE:

Was the appeal timely?
Was the separation a layoff, discharge for misconduct or voluntary quit without good cause?

FINDINGS OF FACT:

On March 3, 2020, Soedo commenced full-time employment with Pacifica as a housekeeper. Her immediate supervisor was Melissa Zina. Pacifica operates a residential care facility.

On Friday, April 17, 2020, Soedo called Zina and told her she was ill with symptoms consistent with Covid-19. Zina told Soedo to go to the hospital. Soedo called the hospital and the hospital staff told her not to come into the hospital and to self-quarantine for fourteen days. Soedo called Zina on April 20, 2020 and told her the hospital had told her to self-quarantine for fourteen days. Zina approved the leave.

On April 28, 2020, Zina called Soedo and told her to come into Pacifica to receive a Covid-19 test. Soedo went into Pacifica on April 29, 2020 and she received a Covid-19 test. Pacifica told Soedo to remain home until the results of the test came back.

On or about May 5, 2020, Zina called Soedo and told her that the results of her Covid-19 test were negative and that she could come back to work. Soedo returned to work on May 6, 2020. When she returned, Zina did not tell Soedo about the widespread Covid-19 infection rate in the facility. Soedo spoke to the nursing staff who informed her about the widespread infection rate in the facility.

Soedo went home from work on May 6, 2020, after working her full shift. Soedo lives with her granddaughter who has asthma. Soedo and her daughter called Zina the next day and told Zina they had learned there was widespread infection at Pacifica Zina had not disclosed to Soedo when she returned on May 6, 2020. Soedo lives with her granddaughter who has asthma and Soedo did not feel comfortable returning to work because of the widespread infection in the facility. Soedo and her daughter reported Zina became angry and was yelling, but she did not terminate Soedo's employment or tell her she needed to return to work.

Soedo learned the infection rate at the facility had decreased in June 2020 and on June 15, 2020, she went into the facility to report back to work. The facility told Soedo she had been terminated. The facility did not provide a reason for her termination. Soedo was upset because she had accumulated paid leave and she was a long-term employee of the facility.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6(2) provides:

A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. . . .

The ten calendar days for appeal begins running on the mailing date. The "decision date" found in the upper right-hand portion of the representative's decision is presumptive evidence of the date of mailing, unless otherwise corrected immediately below that entry. *Gaskins v. Unemployment Compensation Bd. of Rev.*, 429 A.2d 138 (Pa. Comm. 1981); *Johnson v. Bd. of Adjustment*, 239 N.W.2d 873 (Iowa 1976). Soedo testified she moved and she did not receive a copy of the decision when it was mailed. When she learned of the decision she appealed. I find her appeal was timely under the facts of this case.

Iowa Code section 96.5(1) provides an individual "shall be disqualified for benefits, regardless of the source of the individual's wage credits: . . . If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department." The Iowa Supreme Court has held a "voluntary quit" means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer." *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989). A voluntary quit requires "an intention to terminate the employment relationship accompanied by an overt act carrying out the intent." *Peck*

v. Emp't Appeal Bd., 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). "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). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016).

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871 Iowa Administrative Code 24.25(20) and (21) 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 following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

24.25(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

24.25(21) The claimant left because of dissatisfaction with the work environment.

871 Iowa Administrative Code 24.26(4) provides:

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:

24.26(4) The claimant left due to intolerable or detrimental working conditions.

Soedo was gone for more than ten days from Pacifica, but I find she did not return because her working conditions were intolerable and detrimental where a reasonable person would feel compelled to quit. Zina did not disclose there was a widespread infection at the facility when Soedo asked. Soedo learned about the seriousness of the infection rate from staff at the facility. After considering the evidence in this case, I find Soedo quit her job with good cause attributable to Pacifica. Benefits are allowed.

DECISION:

The July 29, 2020 (reference 01) unemployment insurance decision denying unemployment insurance benefits is reversed in favor of the claimant/appellant. Benefits are allowed, provided the claimant is otherwise eligible.



Heather L. Palmer
Administrative Law Judge
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September 25, 2020
Decision Dated and Mailed

hlp/sam