

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ABIGALE M FISCHER
Claimant

HOLUB GREENHOUSES, INC.
Employer

**APPEAL 20A-UI-09607-AD-T
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/12/20
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On August 12, 2020, Abigale Fischer (claimant/appellant) filed a timely appeal from the August 3, 2020 (reference 02) unemployment insurance decision that denied benefits based on a finding voluntarily quit on April 17, 2020 without good cause attributable to employer.

A telephone hearing was held on September 25, 2020. The parties were properly notified of the hearing. Claimant participated personally. Holub Greenhouses, Inc. (employer/respondent) participated by owner and president Mike Holub.

Claimant's Exhibit 1 was admitted. Official notice was taken of the administrative record.

ISSUE(S):

- I. Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?
- II. Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds:

Claimant began working for employer on February 17, 2020. Claimant last performed work for employer on April 6, 2020. Claimant began experiencing COVID-like symptoms that evening and the following morning and communicated this to her manager, Brent Dunn. Claimant and Dunn agreed it would be best for her to stay home the rest of that week and the following week.

On April 17, 2020, claimant contacted Dunn and informed him her doctor did not want her to return to work at all, as claimant had underlying medical conditions that made her particularly susceptible to COVID-19. Claimant resigned at that time. Claimant has not performed work for insured wages since that time.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the August 3, 2020 (reference 02) unemployment insurance decision that denied benefits based on a finding voluntarily quit on April 17, 2020 without good cause attributable to employer is AFFIRMED.

Iowa Code section 96.5(1)a 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.

Iowa Admin. Code r. 871-24.25 provides in relevant part:

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:

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

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). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).


Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). 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).

Employer has carried its burden of proving claimant's departure from employment was voluntary. However, claimant has not carried her burden of proving the voluntary leaving was for good cause attributable to employer. Claimant left employment for compelling personal reasons. However, her absence lasted more than ten days.

The administrative law judge wishes to note that while this decision denies regular, state unemployment benefits, the evidence indicates claimant may be eligible for federal Pandemic Unemployment Assistance (PUA). Further information on PUA and how to apply is set forth below.

DECISION:

The August 3, 2020 (reference 02) unemployment insurance decision that denied benefits based on a finding voluntarily quit on April 17, 2020 without good cause attributable to employer is **AFFIRMED**. Claimant is disqualified from benefits until she earns wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

September 28, 2020
Decision Dated and Mailed

abd/scn

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.