

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TAYLOR C WHITE

Claimant

APPEAL 20A-UI-10971-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TRINITY CONTINUING CARE SERVICES

Employer

OC: 04/19/20

Claimant: Appellant (1/R)

Iowa Code § 96.5-2-a – Discharge for Misconduct

Iowa Code § 96.5-1 - Voluntary Quit

Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Taylor White (claimant) appealed a representative's September 2, 2020, decision (reference 02) that concluded ineligibility to receive unemployment insurance benefits due to voluntarily quitting with the Trinity Continuing Care Services (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for October 27, 2020. The claimant participated personally. The claimant's grandmother, Pearl Streets, and her Fiancé, Brady Schmidt, participated in the hearing. The employer was represented by Michael Baughman, Agent, and participated by Carolyn Mulholland, Director of Human Resources, and Valorie Armstrong, Dietary Manager.

The employer offered and Exhibit One was received into evidence. The administrative law judge took official notice of the administrative file.

ISSUES:

The issues include whether the claimant was separated from employment for any disqualifying reason and whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on November 23, 2019, as a full-time dietary aid. She worked in the kitchen and delivered meals to the rooms of residents.

When the Covid-19 pandemic started, the employer provided masks, face shields, and gloves. It took employees temperatures. On March 30, 2020, the claimant provided a note from her obstetrician indicating she was due on June 16, 2020. Her doctor recommended she work from home. If that was not allowed, then she should be allowed to social distance and not care for patients. The employer let the claimant work in the kitchen, no meal delivery, and socially distance.

On April 22, 2020, the claimant told the employer she was quitting because a resident tested positive. The resident was quarantined and the claimant had no contact with the person. The claimant decided to self quarantine without a doctor's note due to concern for her pregnancy. Continued work was available with the employer had she not resigned.

The baby was born on June 13, 2020. The claimant's physician restricted her from working from June 13, 2020, through August 4, 2020. The claimant decided to self quarantine without a doctor's note and not look for work from August 4, 2020, through October 15, 2020. The claimant wanted to stay home with her baby.

On October 16, 2020, the claimant looked for part-time work. She did not want to look for full-time work because she wanted to be with her child. She started working for the YWCA in Clinton, Iowa, on October 19, 2020.

The claimant filed for unemployment insurance benefits with an effective date of April 19, 2020. Her weekly benefit amount was determined to be \$227.00. The claimant received benefits from April 19, 2020, to the week ending August 22, 2020. This is a total of \$3,934.16 in state unemployment insurance benefits after the separation from employment. She received \$227.00 in Pandemic Emergency Unemployment Compensation. She also received \$8,400.00 in Federal Pandemic Unemployment Compensation for the fourteen-week period ending July 25, 2020.

REASONING AND CONCLUSIONS OF LAW:

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.

Iowa Admin. Code r. 871-24.25(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 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.

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). The claimant's intention to voluntarily leave work was evidenced by words and actions. When employees quit work because of dissatisfaction with the work environment, their leaving is without good cause attributable to the employer. The claimant left work because she did not like her work environment after the

accommodations. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.22(1)a provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

Iowa Admin. Code r. 871-24.23(1), (8), and (16) provide:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(1) An individual who is ill and presently not able to perform work due to illness.

(8) Where availability for work is unduly limited because of not having made adequate arrangements for child care.

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). When employees are unable to perform work due to a medical condition or when they are spending working hours caring for children, they are considered to be unavailable for work. A worker is

considered to be unavailable for work also when an employee limits working hours for a particular reason.

The claimant's doctor said she could not work from June 13, 2020, through August 4, 2020. She was devoting her time and efforts caring for her child from August 4, 2020, through October 15, 2020. She is considered to be unavailable for work. The claimant limited her hours by self-quarantining from April 22, 2020, through June 13, 2020. She continues to limit her hours to part-time work. The claimant is disqualified from receiving unemployment insurance benefits because she is not able and available for work as of April 19, 2020.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

The issue of whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

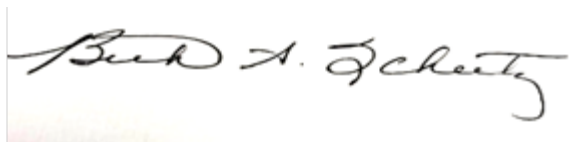
DECISION:

The representative's September 2, 2020, decision (reference 02) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

The claimant is disqualified from receiving unemployment insurance benefits because she is not able and available for work as of April 19, 2020.

The issue of whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

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>.

A handwritten signature in black ink, reading "Beth A. Scheetz", is positioned above a horizontal line.

Beth A. Scheetz
Administrative Law Judge

October 29, 2020
Decision Dated and Mailed

bas/scn