

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ROBERT TREMBLAY**  
Claimant

**DALL-HAUS INC**  
Employer

**APPEAL 20A-UI-08876-ED-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 05/17/20**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the July 14, 2020, (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on September 8, 2020. The claimant, Robert Tremblay, participated and testified. Sherri Tremblay testified on behalf of the claimant. The employer Dall-Haus Inc, participated through Austin Wyre.

**ISSUE:**

Did claimant voluntarily leave the employment with good cause attributable to the employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed from July 25, 2018 as a team member until his employment ended on February 2, 2020, when he voluntarily quit. Claimant's last day of work was February 1, 2020. This employer is a restaurant.

On February 1, 2020, Mr. Wyre could not locate Mr. Tremblay during a particularly busy lunch hour. After the busy lunch hour had passed, Mr. Wyre located Mr. Tremblay and spoke to him about a number of items that Mr. Tremblay had not been taking care of during that lunch hour, such as filling the ketchup containers. Mr. Tremblay stated that he did not feel that Mr. Wyre was respectful to him during the conversation. Mr. Tremblay was upset by the conversation, and stated that he left work that day in a blinding rage. Mr. Tremblay also admitted he did not perform well at work when he was suffering from depression.

On February 2, 2020, Mr. Tremblay did not report for his scheduled shift. The assistant manager, Madison Mootzart contacted Mr. Tremblay by telephone. In the phone call, Mr. Tremblay informed the assistant manager that he would not be coming into work, as he was not going to be working there anymore. Claimant did not return to work after that phone call.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was not discharged but voluntarily left the employment without good cause attributable to employer.

Iowa Code § 96.5(2)a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Code §96.5(1) provides:

An individual shall be disqualified for benefits:

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.

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).

Claimant had an intention to quit and carried out that intention by not reporting to his scheduled shift on February 2, 2020. When the assistant manager reached out to Mr. Tremblay by telephone, he informed the manager that he would not be working for the employer going forward.

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).

In this case claimant voluntarily quit on February 2, 2020 because he was reprimanded after the busy lunch hour on February 1, 2020.

Iowa Admin. Code r. 871-24.25(28) 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 § 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 § 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:

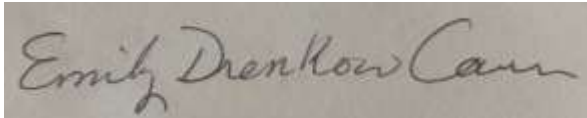
(28) The claimant left after being reprimanded.

The claimant's voluntary quitting was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

*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>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

**DECISION:**

The July 14, 2020, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits shall be withheld in regards to this employer until such time as claimant is deemed eligible.



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Emily Drenkow Carr  
Administrative Law Judge

September 16, 2020  
Decision Dated and Mailed

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