

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

SHILA K GALLEGOS
Claimant

HEARTH & HOME TECHNOLOGIES LLC
Employer

APPEAL NO. 20A-UI-11697-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (1)

Iowa Code § 96.5-1 – Voluntary Quit
Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated September 18, 2020, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on November 16, 2020. Claimant participated. Employer failed to respond to the hearing notice and did not participate.

ISSUES:

Whether claimant quit for good cause attributable to employer?

Whether 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: Claimant last worked for employer on July 3, 2020. Claimant voluntarily quit on that date as she was unable to get employer to go along with allowing claimant to change the hours of her shift to accommodate her college schedule.

Claimant worked the same shift for employer for approximately three years. Other workers were allowed to take breaks in their shifts to go to their children's school or athletic events. Claimant asked to be able to take time off from her shift to take classes in the medical field such that she could better herself. Claimant's classes were outside of the home fireplace field where she was working. Employer refused to allow claimant to change her shift to accommodate her class schedule, so claimant terminated her employment.

Claimant either needed to change her shift times entirely, or she needed to take time off in the middle of her shift to attend classes as she was not able and available to attend her normal hours of work. Employer was not willing to allow any of these options.

REASONING AND CONCLUSIONS OF LAW:

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 Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

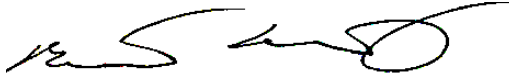
1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because employer would not change her work hours to better fit with claimant's class schedule. When claimant got her new class schedule, she was no longer able and available to work the hours she'd worked for nearly three years.

Ordinarily "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code Section 96.2. *O'Brien v. EAB* 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the test of good faith." *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "Common sense and prudence must be exercised in evaluating all of the circumstances that led to an employee's quit in order to attribute the cause for the termination." *Id.* Whereas claimant is to be commended for seeking to better her life through additional education, employer is not obligated to alter the established workday to fit claimant's changed availability. Claimant's quit is attributable to her class schedule, not a change on the part of employer. Benefits denied.

DECISION:

The decision of the representative dated September 18, 2020, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.



Blair A. Bennett
Administrative Law Judge

November 23, 2020
Decision Dated and Mailed

bab/scn