

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**SAW SHWE**

Claimant

**OSCEOLA FOOD LLC**

Employer

**APPEAL 20A-UI-10000-HP-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/19/20**

**Claimant: Appellant (1)**

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 Saw Shwe filed an appeal from a June 19, 2020 (reference 03) unemployment insurance decision finding he voluntarily quit his work with Osceola Food LLC (“Osceola Food”) on August 15, 2019, for personal reasons. Notices of hearing were mailed to the parties’ last known addresses of record for a telephone hearing scheduled for October 7, 2020. Mye, an interpreter with CTS Language Link, provided Burmese interpretation services during the hearing. Shwe appeared and testified. Beverly Maez represented Osceola Food. Roberto Luna appeared and testified on behalf of Osceola Food. I took administrative notice of the claimant’s unemployment insurance benefits records maintained by Iowa Workforce Development.

**ISSUES:**

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

**FINDINGS OF FACT:**

On June 26, 2017, Shwe commenced full-time employment with Osceola Food as a production worker. Edwin Sanchez was his immediate supervisor at the end of his employment.

On August 15, 2019, Shwe went to the human resources office and spoke with Luna with a Burmese interpreter. Shwe told Luna he wanted to resign because of the commuting distance between his home and work. The commuting distance was the same throughout Shwe’s employment. Shwe knew of the commuting distance when he accepted employment with Osceola Food. Shwe also testified he wanted to work on taking his citizenship test, so that was a factor in his resignation.

Luna accepted Shwe’s resignation. Shwe is eligible for rehire. Luna reported he was a good employee.

Shwe testified he received assistance in filing his appeal. He reported the decision was provided to him in English and he did not understand it.

### **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.6(2) requires an appealing party to file an appeal of an unemployment decision within ten days after the mailing date. Shwe testified he did not understand the decision that was in English. Shwe received assistance from a community group and he appealed the decision when he learned what it said. I find his appeal was timely under the circumstances.

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).

871 Iowa Administrative Code 24.25(30) 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(30)** The claimant left due to the commuting distance to the job; however, the claimant was aware of the distance when hired.

Shwe’s commute to and from Osceola Food was one hour each way. Shwe drove the commute for two years, until he decided he did not want to commute any longer. On August 15, 2019, Shwe spoke to Luna with a Burmese interpreter and told Luna he wanted to resign because of the commuting distance. Shwe was aware of the commuting distance when he accepted the position with Osceola Food. As such, his voluntary quit is presumed to be without good cause attributable to Osceola Food. Benefits are denied.

### **DECISION:**

#### **Regular Unemployment Insurance Benefits Under State Law**

The June 19, 2020 (reference 03) unemployment insurance decision denying unemployment insurance benefits is affirmed. Claimant voluntarily quit the claimant’s employment with the employer on August 15, 2019. Unemployment insurance benefits are denied until the claimant has worked in and earned wages for insured work equal to ten times the claimant’s weekly benefit amount after the claimant’s separation date, and provided the claimant is otherwise eligible.

### **Pandemic Unemployment Assistance (“PUA”) Under the Federal CARES Act**

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, the claimant may be eligible for federally funded unemployment insurance benefits under the CARES Act. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (“PUA”) that may provide up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive an additional \$600 weekly benefit amount under the Federal Pandemic Unemployment Compensation (“FPUC”) program if the individual is eligible for PUA benefits for the week claimed. The FPUC additional \$600 payment per week ended as of July 25th in Iowa. This means the \$600 weekly additional benefit stopped and at this time, no extension or change to the program has been made by Congress at this time. This does mean that you will see a corresponding decrease in your weekly benefit amount. The FPUC payments are not a state benefit and Iowa is unable to make any changes to the availability of this benefit. If a change takes place to this benefit in the future, IWD will share on the IWD website and social media. This decision does not address whether the claimant is eligible for PUA. If the claimant wishes to receive PUA benefits, the claimant must apply for PUA, as noted in the instructions provided in the “Note to Claimant” below:

**Note to Claimant:** If this decision determines you are not eligible for regular unemployment insurance benefits and 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, 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>.** This decision denies benefits. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.



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Heather L. Palmer  
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October 8, 2020  
Decision Dated and Mailed

hlp/scn