

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TIMECIA S GAINES
Claimant

AT&T MOBILITY SERVICES LLC
Employer

APPEAL 21A-UI-22618-JC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/30/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

Claimant filed an appeal from the October 1, 2021, (reference 05) unemployment insurance decision that denied benefits. After proper notice, a telephone hearing was conducted on December 6, 2021. The hearing was held together with Appeals 21A-UI-22619-JC-T and 21A-UI-22621-JC-T. The claimant participated in the hearing personally. Employer was represented by Jacqueline Jones, a hearing representative with Talx/Equifax. Matthew Holtgren testified. Official notice was taken of the administrative records. Claimant Exhibits A-F were admitted.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Was the claimant discharged for disqualifying job-related misconduct?
Was the claimant able to work and available for work effective August 30, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began employment July 15, 2019 and last physically worked on July 25, 2020 as a full-time customer service representative. Claimant permanently separated from employment on April 20, 2021.

In claimant's final few months of work before July 25, 2020, she had been given permission to work remotely from home in response to the COVID-19 pandemic. However, employer revoked claimant's telework agreement after she had received multiple "bad" customer service surveys while working from home. Claimant was not permitted to work from home after July 25, 2020 as a result.

Claimant is a single mother of three small children, and due to the COVID-19 pandemic, their school and daycare closed. As a result, they were home with her. Claimant notified employer of her circumstances and stated to the employer unless she was allowed to work from home, she would be unable to work due to a lack of childcare.

Claimant moved to Pontiac, Michigan in September 2020 and did not inform the employer. Employer sent letters to claimant regarding her leave of absence, some of which were forwarded to her in the mail, and some that were not. Claimant and employer had a phone call in December 2020, in which claimant reiterated that she would resign if employer did not permit her to work from home. Claimant was unresponsive to subsequent attempts to reach her and effective April 20, 2021, employer determined claimant had separated from the employment.

The administrative records reflect that claimant applied for Pandemic Unemployment Assistance (PUA) benefits. In a December 8, 2020 initial decision, claimant was approved for PUA benefits effective August 23, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit the employment without good cause attributable to the employer. Regular, state-funded benefits are denied. *This decision will not negatively impact the claimant's approval of Pandemic Unemployment Assistance (PUA) benefits.*

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 claimant has the burden of proof to establish she quit with good cause attributable to the employer, according to Iowa law. "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. Industrial Relations Commission*, 277 So.2d 827 (Fla. App. 1973).

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. Iowa Dep't 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 element of good faith." *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986) "[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.*

Iowa Admin. Code r. 871-24.25(17) 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:

(17) The claimant left because of lack of child care.

Iowa Admin. Code r. 871-24.25(23) 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:

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

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's employment ended because she did not have childcare, and employer would not continue to allow her to telework, after customer complaints. The evidence presented supports claimant's intent to quit if telework was not reinstated for her. Telework was not reinstated and claimant did not return to the employment to perform work.

Claimant's reasons were personally compelling but not good cause attributable to the employer according to Iowa law. Therefore, regular, state funded benefits are denied. *This decision will not negatively impact the claimant's approval of Pandemic Unemployment Assistance (PUA) benefits.*

DECISION:

The October 1, 2021 (reference 05) unemployment insurance decision is AFFIRMED. The claimant voluntarily quit the employment without good cause attributable to the employer. Regular, state-funded benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.



Jennifer L. Beckman
Administrative Law Judge
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January 7, 2022
Decision Dated and Mailed

jlb/mh

NOTE TO CLAIMANT: 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.

ATTENTION: On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.

You may find information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>

Iowa Finance Authority also has additional resources at <https://www.iowafinance.com/about/covid-19-ifa-recovery-assistance/>