

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

GENESIS PIERCE
Claimant

APPEAL NO: 200-UI-10384-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CEDAR FALLS LUTHERAN HOME FOR THE
Employer

OC: 03/15/20
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 16, 2020, reference 02, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on October 13, 2020. The claimant participated in the hearing. Lynn Kline, Human Resources Representative/Recruiter, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time, day shift, lunch cook/dietary aide for Cedar Falls Lutheran Home for the Aged from January 30, 2020 to February 6, 2020. She voluntarily left her employment because she was dissatisfied with the rate of pay.

The claimant was interviewed and hired pending a background check. She did not ask what the pay was at the time of interview or hire. The claimant reported for her first day of training February 3, 2020, but clocked out after 30 minutes and left. The employer called and emailed the claimant but she did not respond. Cooks are paid \$11.15 per hour and dietary aides are paid \$10.65 per hour. Cooks and dietary aides earn an extra \$.50 per hour for perfect attendance. The claimant believed she should be paid extra because she is certified in food safety but the employer does not consider that in establishing the rate of pay. She also believed she should be paid a shift differential if she picked up second shift hours but the employer only pays servers who work after 4:00 p.m. a shift differential.

Despite being denied benefits at the initial fact-finding, the decision was made by Iowa Workforce Development to release funds of the claimants while their appeals were pending due to the backlog in appeals caused by the recent COVID 19 outbreak. The claimant was one of the individuals whose funds were released pending appeal. The administrative record shows

the claimant filed for and received a total of \$965.00 in unemployment insurance benefits for the four weeks ending April 11, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

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.

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. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

Iowa Admin. Code r. 871.24-25(13) provides:

(13) The claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.

While the claimant may not have known the rate of pay when she accepted the position with the employer, she had a responsibility to learn her pay before deciding to accept the job. Instead, she waited until after starting the job to find out the rate of pay and deciding it was lower than she expected or was willing to accept. It is not unreasonable to expect an employee to inquire about the rate of pay before accepting the position. If the claimant had done so she could have made an informed decision about the job with the employer because she would have known the rate of pay and that the employer did not pay extra for food safety certification or a shift differential for her job. In this case the claimant waited until after she started her position with the employer to find out the rate of pay and then quit her job when she learned her pay rate. She has not demonstrated that her leaving was for good cause attributable to the employer as that term is defined by Iowa law. Therefore, benefits must be denied.

As the claimant/appellant has been receiving benefits, pending a determination on her appeal, the next issue in this case is whether the claimant/appellant was overpaid unemployment insurance benefits.

Iowa Code section 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.
 - a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover

the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

Since the decision disqualifying the claimant has been affirmed, the claimant was overpaid \$965.00 in unemployment insurance benefits for the four weeks ending April 11, 2020.

DECISION:

The April 16, 2020, reference 02, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. 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. The claimant has received benefits but was not eligible for those benefits. Therefore, the claimant is overpaid benefits in the amount of \$965.00 for the four weeks ending April 11, 2020.



Julie Elder
Administrative Law Judge

October 14, 2020
Decision Dated and Mailed

je/scn