

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHARLOTTE M PADILLA
Claimant

HD-2 INC
Employer

APPEAL 20A-UI-13245-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/12/20
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.5(12) – Supplemental Part-time Income
Iowa Admin. Code r. 871-24.27 – Voluntary Quitting of Part time work

STATEMENT OF THE CASE:

Charlotte M Padilla, the claimant/appellant, filed an appeal from the October 22, 2020, (reference 02) unemployment insurance decision that allowed benefits. The parties were properly notified of the hearing. A telephone hearing was held on December 17, 2020. The claimant participated and testified. The employer did not participate.

ISSUE:

Did the claimant voluntarily quit her part-time employment without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed at the employer, dba as Subway, as a part-time sandwich maker on weekends.

On July 14, 2020, the claimant gave the employer a 2-week resignation notice. The employer accepted her notice. The claimant worked her scheduled shifts the weekend of July 18-19. The claimant learned that she had been exposed to COVID-19 by a co-worker that weekend. The claimant tested positive for COVID-19 on July 20 and notified the employer. The claimant began 14 days of self-quarantine on the advice of her doctor. The claimant did not work her scheduled shift the next weekend. Instead, the claimant had another co-worker cover her shifts. The claimant's employment with the employer ended on July 28 because she resigned.

The administrative records shows that the claimant is monetarily eligible based on wages earned with another employer on her claim.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code section 96.5(2)a provides:

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

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 disqualification shall continue 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 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.

Iowa Admin. Code r. 871-24.25(37) 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:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

Iowa Code section 96.5(12) provides:

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

12. *Supplemental part-time employment.* If the department finds that an individual is disqualified for benefits under subsection 1 or 2 based on the nature of the individual's separation from supplemental part-time employment, all wages paid by the supplemental part-time employer to that individual in any quarter which are chargeable following a disqualifying separation under subsection 1 or 2 shall not be considered wages credited to the individual until such time as the

individual meets the conditions of requalification as provided for in this chapter, or until the period of disqualification provided for in this chapter has elapsed.

Iowa Admin. Code r. 871-24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on Form 655323, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

This rule is intended to implement Iowa Code section 96.5(1)g.

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). 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).

In this case, the claimant gave her resignation and the employer accepted it. After giving her notice, the claimant was exposed to COVID-19. Claimant's exposure to COVID-19 did not change the fact that she resigned. Claimant's leaving her part-time employer was not for a good-cause reason attributable to the employer according to Iowa law. However, since there are sufficient wages earned with another employer on her claim, the claimant is eligible to receive benefits, as long as she meets all the other eligibility requirements.

The separate issue of whether or not claimant was able to and available to work is not before the administrative judge. The administrative judge makes no findings of fact or conclusions of law about that issue but notes that the unemployment insurance decision dated October 28, 2020 (reference 01) denied benefits based on the claimant not being able to and available for work with employer Railcrew Xpress LLC. If claimant disagrees with that decision, information about the appeal process and appeal deadlines are on the October 28, 2020 (reference 01) decision.

DECISION:

The October 22, 2020, (reference 02) unemployment insurance decision is affirmed. The claimant voluntarily quit her part-time employment without good cause attributable to the employer and she is eligible to receive benefits, as long as she meets all the other eligibility requirements.



Daniel Zeno
Administrative Law Judge

December 31, 2020
Decision Dated and Mailed

dz/mh