

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

NIKKIA R KOELLING
Claimant

APPEAL NO. 20A-UI-15618-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WHEATSFIELD COOPERATIVE
Employer

OC: 06/21/20
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant, Nikkia Koelling, filed a timely appeal from the November 2, 2020, reference 01, decision that disqualified her for benefits and that held the employer's account would not be charged, based on the deputy's conclusion that the claimant voluntarily quit on June 21, 2020 without good cause attributable to the employer. After due notice was issued, a hearing was held on January 26, 2021. The claimant participated. The employer did not provide a telephone number for the appeal hearing and did not participate. Exhibit A was received into evidence.

ISSUE:

Whether the claimant's voluntary quit was for 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 by Wheatsfield Cooperative, a member-owned grocery store, as a full-time Deli Chef. The employment began in May 2019. The claimant last performed work for the employer on or about May 31, 2020. Prior to March 17, 2020, the claimant was responsible for preparing food for the store's hot bar. After Governor Reynolds' March 17, 2020 COVID-19 based Public Health Disaster Proclamation forced closure of the hot bar, the claimant continued to perform food preparation duties to stock the store's grab-and-go cooler.

The claimant is the mother of a 10 year old child and shares physical custody with the child's father. The claimant has physical custody of her child during alternating weeks. After Ames schools discontinued in-person classes in mid-March 2020, the claimant initially continued to work full-time by arranging for her sister to care for her child and by adjusting her work hours. The claimant then commenced using paid leave made available through the Emergency Family and Medical Leave Act (EFMLA) during her custody weeks and commenced working at Wheatsfield only during those alternating weeks when she did not have physical custody of her child.

On or about June 21, 2020, the claimant met with Wheatsfield's general manager and another manager to tell them of her decision to leave the employment. The employer continued to have work for the claimant and was genuinely concerned for the claimant's financial wellbeing in the event the claimant left the employment. The claimant decided that she needed to leave the employment due to childcare issues and so that she could focus on her wellbeing and the wellbeing of her child during unsettled times. The claimant was unsettled by her own ongoing mental health concerns, by discussion in the workplace pertaining to the Black Lives Matter protests, and by the risk of being exposed to COVID-19. The claimant is quick to emphasize the family-like, supportive work atmosphere at the co-op, quick to clarify that the employer had taken precautions regarding COVID-19, and quick to clarify that none of the discussions in the workplace were untoward or hostile. The claimant adds that the employer continued to be supportive and willing to make accommodations that would allow the claimant to continue in the employment. The claimant's decision to leave the employment was not upon advice from a medical or mental health professional.

REASONING AND CONCLUSIONS OF LAW:

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 requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992).

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.

...

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

The evidence in the record establishes a voluntary quit that was without good cause attributable to the employer. The claimant left the employer for reasons related a lack of child care, a desire to focus on her own mental health, her general wellbeing, and the wellbeing of her child. Because the quit was without good cause attributable to the employer, the claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

DECISION:

The November 2, 2020, reference 01, decision is affirmed. The claimant voluntarily quit the employment effective June 21, 2020 without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.



James E. Timberland
Administrative Law Judge

February 10, 2021
Decision Dated and Mailed

jet/scn

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. 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.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>.