

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ANGELIA HILLIARD
Claimant

APPEAL 21R-UCFE-00041-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

US POSTAL SERVICE/EQUIFA
Employer

**OC: 03/21/21
Claimant: Appellant (2R)**

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 9, 2021, (reference 02) that held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on December 8, 2021. Claimant participated. Employer failed to respond to the hearing notice and did not participate. The administrative law judge took official notice of the administrative record including the fact-finding documents.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant is currently employed by this employer. She has not been separated from the employment.

Claimant began working for employer on May 23, 2013 as a full-time forklift driver. She was injured at work sometime in 2020 and she is on light duty. Claimant works the hours that employer offers her when it has light duty available work available to her.

The issue of whether claimant is able and available for work should be remanded to the claims department.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence shows that claimant did not voluntarily leave the employment.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits:

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.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

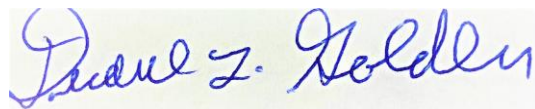
Claimant is still employed by this employer. She did not leave the employment, and was not separated from the employment. Benefits are allowed.

DECISION:

The decision of the representative dated June 9, 2021, (reference 02) is reversed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

REMAND:

The issue of whether the claimant is able to work, available for work, and actively and earnestly seeking work is remanded to the Benefits Bureau of Iowa Workforce Development for a fact-finding interview and unemployment insurance decision.



Duane L. Golden
Administrative Law Judge

January 19, 2022
Decision Dated and Mailed

dlg/mh