

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALAN M ARMSTRONG
Claimant

HOLY SPIRIT RETIREMENT HOME
Employer

**APPEAL 20A-UI-04572-HP-T
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/12/20
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2) – Discharge due to Misconduct

STATEMENT OF THE CASE:

Claimant Alan Armstrong filed an appeal from the May 19, 2020 (reference 01) unemployment insurance decision that denied benefits based upon him voluntarily quitting work without good cause attributable to the employer, Holy Spirit Retirement Home (“Holy Spirit”). Notices of hearing were mailed to the parties’ last known addresses of record for a telephone hearing scheduled for June 15, 2020. Armstrong appeared and testified. Cheryl Hansen appeared and testified on behalf of Holy Spirit. I also took administrative notice of Armstrong’s unemployment insurance benefits records maintained by Iowa Workforce Development.

ISSUE:

Did the claimant voluntarily quit the employment with good cause attributable to the employer?

FINDINGS OF FACT:

Armstrong commenced his employment as a full-time and salaried dietary manager for Holy Spirit on October 21, 2019. Kyla Sprakel, the administrator, was his direct supervisor.

Armstrong was offered the job of assistant general manager for the restaurant, Red Rosa in Pierre, South Dakota. Armstrong told Sprakel he wanted to resign. On March 9, 2020, Armstrong submitted a written notice of resignation to Sprakel and to Hansen, the human resources manager for Holy Spirit. Hansen met with Armstrong and told him she would miss him. Armstrong’s last day of work was April 3, 2020.

Armstrong did not commence his employment with Red Rosa. He did not rescind his resignation with Holy Spirit or ask for his job back when he did not start with Red Rosa. Hansen testified Armstrong could have worked for Holy Spirit as long as he wanted to. On May 4, 2020 or May 5, 2020, he was hired as a general manager designate for Perkins.

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:If the individual has left work voluntarily without good cause attributable to the individual’s employer, if so found by the department.” The Iowa Supreme Court has held a “voluntary quit” means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer.” *Wills v. Emp’t Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989). A voluntary quit requires “an intention to terminate the employment relationship accompanied by an overt act carrying out the intent.” *Peck v. Emp’t Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). “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).

Under 871 Iowa Administrative Code 24.25(2), a voluntary quit based on the claimant’s move to a different locality “shall be presumed to be without good cause attributable to the employer.” Additionally, if the claimant quits voluntarily to seek other employment, but does not secure the employment, the quit “shall be presumed to be without good cause attributable to the employer.” Armstrong testified he resigned from Holy Spirit to secure employment with Red Rosa. Armstrong’s last day of work for Holy Spirit was April 3, 2020. Due to the pandemic restaurants closed and Armstrong did not secure employment with Red Rosa. Armstrong did not rescind his resignation or ask for his job back when he learned he would not be starting with Red Rosa. Under the administrative rules, Armstrong did not establish he left with good cause attributable to Holy Spirit because he never commenced employment with Red Rosa. Therefore, benefits must be denied.

While the claimant may not be eligible for regular State of Iowa unemployment insurance benefits, he may be eligible for unemployment insurance benefits that have been made available to claimants under the Coronavirus Aid, Relief, and Economic Security Act (“Cares Act”). The Pandemic Unemployment Assistance (“PUA”) section of the Cares Act discusses eligibility for claimants who are unemployed due to the Coronavirus. For claimants who are ineligible for regular unemployment insurance benefits under Iowa Code Chapter 96, they may be eligible under PUA.

Note to Claimant: If this decision determines you are not eligible for regular unemployment insurance benefits and 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. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

DECISION:

The May 19, 2020 (reference 01) unemployment insurance decision denying unemployment insurance benefits is affirmed. Claimant voluntarily quit his employment with the employer on April 3, 2020. Unemployment insurance benefits are denied until the claimant has worked in and earned wages for insured work equal to ten times his weekly benefit amount after his separation date, and provided he is otherwise eligible.



Heather L. Palmer
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June 29, 2020
Decision Dated and Mailed

hlp/scn