

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**KARLA HANKEMEIER**  
Claimant

**APPEAL 20A-UI-11845-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HIAWATHA CARE CENTER INC**  
Employer

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

---

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

On September 21, 2020, Karla Hankemeier (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated September 17, 2020 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on July 17, 2020 without good cause attributable to employer.

A telephone hearing was held on November 18, 2020. The parties were properly notified of the hearing. The claimant participated personally. Her mother, Tracy Swanson, participated as a witness on her behalf. Hiawatha Care Center Inc (employer/respondent) participated by HR Director Amanda Kennedy.

Claimant's exhibit 1 was admitted. Official notice was taken of the administrative record.

**ISSUE(S):**

- I. Was the separation from employment a layoff, discharge for misconduct, or voluntary quit without good cause?
- II. Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant's first day of employment was March 4, 2019. Claimant worked for employer full-time as a laundry aide. The last day claimant worked on the job was July 2, 2020. Claimant's immediate supervisor was Donna Radake. Claimant separated from employment on July 17, 2020. Claimant voluntarily quit on that date.

Claimant was on vacation beginning July 3, 2020 and was scheduled to return to work on July 13, 2020. On July 11, claimant received notification from the employer that another employee had tested positive for COVID-19. That employee was sent home several days prior and worked on a different shift and in a different part of the building. Claimant then made multiple requests to employer for an unpaid, two-week leave of absence due to her fear of contracting the virus at

work. Employer denied these requests and informed claimant that if she did not return to work as scheduled she would be considered to have abandoned her position. Employer has a policy providing that three consecutive no-call, no-show absences is considered a voluntary quit. Claimant did not return to work as scheduled on July 13, 14, 15, or 16, 2020. Employer determined on July 17, 2020 that claimant had abandoned her position by failing to return to work.

Claimant has COPD and also lives with and cares for her mother, who is elderly and also has pre-existing conditions making her particularly susceptible to COVID-19. Claimant did not obtain the advice of a physician prior to requesting the leave of absence or resigning.

Employer was taking several precautions at its facility aimed at preventing employees from contracting COVID-19 while on the premises. This included daily temperature screenings and questionnaires. Employees were sent home if they had a fever or were exhibiting symptoms of COVID-19. Employees were also required to wear PPE while working.

Claimant began a new job on October 9, 2020. This is a part-time position. According to the weekly wages reported by claimant, she has earned approximately \$1,200.00 in this position to date. Her weekly benefit amount is \$278.00.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons set forth below, the decision dated September 17, 2020 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on July 17, 2020 without good cause attributable to employer is AFFIRMED.

Iowa Code section 96.5(1)a 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. But the individual shall not be disqualified if the department finds that:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee

complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). 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).

As an initial matter, the administrative law judge finds claimant was not discharged but rather voluntarily separated from employment. Claimant knew that if she did not return to work as scheduled she would be considered to have abandoned her position. With this knowledge, claimant still chose not to return to work. In other words, the claimant exercised a voluntary choice to terminate the relationship and did so by not appearing for work as scheduled.

Employer has carried its burden of proving claimant's departure from employment was voluntary. However, claimant has not carried her burden of proving the voluntary leaving was for good cause attributable to employer.


The administrative law judge is sympathetic to claimant's reasons for not returning to work. Claimant and her mother are both particularly susceptible to COVID-19 and as such claimant chose to be especially cautious upon learning of the coworker's positive test. However, the employer was taking reasonable measures in response to that particular case and generally to prevent its staff from being exposed to COVID-19. Furthermore, claimant did not obtain advice from a physician prior to discontinuing work. Had claimant's physician ordered she not return to work due to the pandemic and employer refused to honor her physician's orders, claimant would have a stronger argument that her quitting was for good cause attributable to employer. But based on the evidence as it exists, the administrative law judge cannot find claimant's quitting was for good cause attributable to employer. Claimant is therefore disqualified from benefits.

It does not appear that claimant has yet earned insured wages equal to ten times her weekly benefit amount of \$278.00, or \$2,780.00. Once she does, she will requalify for benefits from that date moving forward. Because claimant is disqualified from benefits, whether she is able to and available for work need not be addressed.

The administrative law judge wishes to note that while this decision denies regular, state unemployment insurance benefits, the evidence indicates claimant may be eligible for Pandemic Unemployment Assistance (PUA). Further information on PUA, including how to apply for it, is set forth below.

**DECISION:**

The decision dated September 17, 2020 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on July 17, 2020 without good cause attributable to employer is AFFIRMED. Claimant's separation from employment was disqualifying. Benefits must be denied, and employer's account shall not be charged. This disqualification shall continue until claimant has earned wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is not otherwise disqualified or ineligible.



---

Andrew B. Duffelmeyer  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515) 478-3528

November 30, 2020  
Decision Dated and Mailed

abd/mh

**Note to Claimant:**

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.