

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

BRIAN FELD
Claimant

APPEAL NO. 20A-UI-09290-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 03/15/20
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit
Iowa Code Section 96.5(1)(g) - Requalification

STATEMENT OF THE CASE:

Brian Feld filed a timely appeal from the July 29, 2020, reference 01, decision that disqualified him for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that Mr. Feld voluntarily quit the employment on September 8, 2019 without good cause attributable to the employer. After due notice was issued, a hearing was held on September 21, 2020. Mr. Feld participated. Barbara Buss of Corporate Cost Control represented the employer and presented testimony through Tiffany Yoder. ER witness John Wombacher was available, but did not testify. Exhibits A through D were received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO, WAGE-A, and the claimant's incomplete application for Pandemic Unemployment Assistance (PUA) benefits.

ISSUES:

Whether the claimant's voluntary quit was without good cause attributable to the employer.
Whether the claimant voluntarily quit for the sole purpose of accepting other or better employment.
Whether the claimant has requalified for benefits since separating from Hy-Vee.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Brian Feld was employed by Hy-Vee on a part-time basis until September 8, 2019, when he voluntarily quit the employment to join the Peace Corps as a volunteer. Mr. Feld began his Hy-Vee employment at a Cedar Rapids store in 2015. From July 2017 to June 2019, Mr. Feld worked in the produce department at the Iowa City store. Mr. Feld then worked as a part-time stocker at a Cedar Rapids store in anticipation of his departure from the employment so that he could join the Peace Corps as a volunteer. Hy-Vee continued to have work available to Mr. Feld at the time he voluntarily separated from the employment. Hy-Vee is the sole base period employer.

Mr. Feld served as a volunteer in the Peace Corp from September 23, 2019 until March 20, 2020, when the Peace Corps cut short his tour of service due to the COVID-19 pandemic.

Mr. Feld has provided a 2019 W-2 Wage and Tax Statement reflecting 2019 Peace Corp wages of \$1,113.44. On September 10, 2020, Mr. Feld commenced new employment with Lowe's for which he estimates he has been paid \$500.00.

REASONING AND CONCLUSIONS OF LAW:

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). 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. See 871 IAC 24.25.

Iowa Code section 96.5(1)(a) provides as follows:

Causes for disqualification.

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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Iowa Admin. Code r. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

Peace Corps "volunteers shall not be deemed officers or employees or otherwise in the service or employment of, or holding office under, the United States for any purpose." Public Law 87-293, Sec. 2504.

The evidence establishes a September 8, 2019 voluntary quit that was for commendable personal reasons, but that was without good cause attributable to the employer. Because the quit was without good cause attributable to the employer, the employer's account will not be charged. Public law 871-293, The Peace Corps Act, specifically and unequivocally states at section 2504 that volunteer service in the Peace Corps is not employment. Accordingly, the administrative law judge cannot deem the period of volunteer work to be employment when determining Mr. Feld's eligibility for unemployment insurance benefits under the voluntary quit statute, Iowa Code section 96.5(1).

Iowa Code section 96.5(1)g 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.

Because the volunteer work with the Peace Corps was not employment within the meaning of the law, and clearly not "insured work," the wages Mr. Feld received from that work do not count towards the 10 times weekly benefit amount requalification requirement. Mr. Feld has not requalified for benefits subsequent to his disqualifying voluntary quit from Hy-Vee.

DECISION:

The July 29, 2020, reference 01, decision is affirmed. The claimant voluntarily quit the employment on September 8, 2019 without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. The claimant has not yet requalified for benefits. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.



James E. Timberland
Administrative Law Judge

September 23, 2020
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>. **If you do not apply for and are not approved for PUA, you will be required to repay the benefits you have received.**