

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMUNAZO KILOWA
Claimant

APPEAL NO. 20A-UI-12493-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

STAFF MANAGEMENT SOLUTIONS LLC
Employer

OC: 06/14/20
Claimant: Appellant (2)

Iowa Code Section 96.5(1) Layoff & Voluntary Separation to Care for Sick Family Member

STATEMENT OF THE CASE:

Amunazo Kilowa filed a timely appeal from the October 1, 2020, reference 01, decision that disqualified her for benefits and that held the employer's account would not be charged for benefits, based on the deputy's conclusion that Ms. Kilowa voluntarily quit on November 14, 2019 without good cause attributable to the employer. After due notice was issued, a hearing was held on December 9, 2020. Ms. Kilowa participated. The employer did not provide a telephone number for the hearing and did not participate. Exhibit A, the three-page appeal, was received into evidence.

ISSUES:

Whether the claimant voluntarily quit without good cause attributable to the employer.
Whether the claimant was laid off.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Amunazo Kilowa was employed by Staff Management Solutions as a full-time packaging worker from 2018 and last performed work for the employer in mid-October 2019. At that time, Ms. Kilowa requested and the employer approved a three leave of absence so that she could travel to Canada to care for her mother, who was at time suffering from cancer and other health issues. Prior to leaving the employment, Ms. Kilowa advised the employer of the basis for her need for the time off. Ms. Kilowa drove to Canada. The trip took 14 to 15 hours. When Ms. Kilowa arrived in Canada, her mother was in the hospital and remained in the hospital for a few days. Once Ms. Kilowa's mother was discharged from the hospital, Ms. Kilowa assisted her mother with the transition home by performing household chores her mother was too weak to perform and by otherwise assisting as needed. After Ms. Kilowa's mother had been home for about a week and a half, Ms. Kilowa's mother was well for Ms. Kilowa to begin planning her return 14-15 hour trip to Iowa. Ms. Kilowa arrived in Iowa in time to report for work at the end of the three-week approved leave period. When Ms. Kilowa contacted the employer, the employer told Ms. Kilowa that the employer was fully staffed and that Ms. Kilowa would have to wait to return to the employment. Ms. Kilowa continued to check in with the employer, but the employer did

not make further work available. Ms. Kilowa did not have any other employment during the time that she was off work caring for her mother.

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).

Iowa Code section 96.5(1)(c) 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:

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer, provided, however, that during such period the individual did not accept any other employment.

If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits. Iowa Admin. Code r. 871-24.22(2)(j)(1).

The evidence in the record indicates that Ms. Kilowa attempted to return to the employer at the end of an approved three-week leave of absence, but that the employer failed to reemploy her at that time. Accordingly, Ms. Kilowa was laid off at time. A layoff would not disqualify her for benefits and would not relieve the employer's account of liability for benefits. In the alternative, this matter may be analyzed as a voluntary separation to care for a sick family member. Ms. Kilowa took the time off to care for her ill mother. Before she left the employment, she notified the employer that she needed the time off to care for her ill mother. She spent the time away from work caring her sick mother. As soon as her mother has sufficiently recovered, Ms. Kilowa attempted to return to the employment, offered her services, but the employer did not have work for her. Ms. Kilowa had not accepted other employment during the time she was off work to care for her mother. Ms. Kilowa is eligible for benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits.

DECISION:

The October 1, 2020, reference 01, decision is reversed. The claimant was laid off when she attempted to return to work at the end of an approved leave of absence and the employer did not make work available. In the alternative, the claimant voluntarily separated from the employment to care for an ill family member, returned to offer her services as soon as the family member had sufficiently recovered, and the employer did not make work available. The claimant is eligible for benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits.



James E. Timberland
Administrative Law Judge

December 17, 2020
Decision Dated and Mailed

jet/scn