

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CAROL S COX
Claimant

DAVE'S WORLD INC
Employer

APPEAL 20A-UI-06276-JC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/10/20
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant/appellant, Carol S. Cox, filed an appeal from the June 8, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 21, 2020. The claimant participated personally. Ryan Cox, husband, attended as an observer. The employer, Dave’s World Inc., participated through Caitlyn Schaeffer, human resources. Crystal Campbell also testified.

The administrative law judge took official notice of the administrative records. Claimant Exhibits A and B were admitted. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as an assistant manager and was separated from employment on May 15, 2020, when she quit the employment without notice. Continuing work was available.

On May 13, 2020, the claimant was issued a performance improvement plan for a host of issues, including attendance, professionalism and others. The performance improvement plan referenced the claimant needing to work with her manager to come with an acceptable schedule that included shift coverage and not just her manager covering shifts when employees called off. The employer attached a copy of the job description, which also references a suggestion that managers work three evenings a week but does not require it (Claimant Exhibit A).

The claimant was very upset by the performance improvement plan and interpreted it to mean she would be required to work three nights a week. She has primarily worked days. She did

not want to work three nights a week because she raises her two grandsons and wanted to be home for them. The employer clarified she would not be required to work three nights but would be required to work out a schedule with her manager so that the claimant helped with shift coverage. The claimant initially agreed but then reconsidered and tendered her resignation.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit the employment without good cause attributable to the employer.

Iowa Code section 96.5(1) 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.

The claimant has the burden of proof to establish she quit with good cause attributable to the employer, according to Iowa law. "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. Industrial Relations Commission*, 277 So.2d 827 (Fla. App. 1973).

Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code section 96.2. *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993)(citing *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986) "[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.*

Iowa Admin. Code r. 871-24.25 provides in pertinent parts:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

...

- (21) The claimant left because of dissatisfaction with the work environment.

...

- (23) The claimant left voluntarily due to family responsibilities or serious family needs.

...

(28) The claimant left after being reprimanded.

In this case, the claimant quit two days after being issued a performance improvement plan. An employer has the right to communicate and provide feedback to its employees regarding its expectations and if rules are not being followed. The administrative law judge is not persuaded that the claimant was required to change working to nights but rather was directed to work with her manager on a schedule, which included a suggestion of three possible nights per week. The claimant did not want to make changes, was upset by the disciplinary action and chose to quit rather than continue working. While the claimant may have had good personal reasons to quit the employment, she has failed to establish her reasons for quitting were for good cause reason attributable to the employer, according to Iowa law. Accordingly, benefits are denied.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, he/she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

DECISION:

The unemployment insurance decision dated June 8, 2020, (reference 01) is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits. 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 due to disqualifying separations 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.** More information about how to apply for PUA is available online at:
www.iowaworkforcedevelopment.gov/pua-information

Jennifer L. Beckman

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July 29, 2020
Decision Dated and Mailed

jlb/sam