

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KIMBERLY R SOWERS
Claimant

MAU TIKKI LLC
Employer

APPEAL 21A-UI-14779-S2-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/09/21
Claimant: Respondent (3R)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.5(1)i – Voluntary Quitting/Business Sale

STATEMENT OF THE CASE:

The employer filed an appeal from the June 25, 2021, (reference 01) unemployment insurance decision that allowed benefits based upon a layoff. The parties were properly notified of the hearing. A telephone hearing was held on August 23, 2021. Claimant Kimberly R. Sowers participated. Employer Mau Tikki, LLC participated through accountant Kate Querry.

ISSUE:

Did the claimant continue working for the acquiring or successor employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part time as an assistant beginning May 18, 2020. Employer sold its business to Jana McCunn on December 31, 2020. The claimant continues working for the successor employer.

Claimant filed her initial claim for benefits effective March 10, 2020, and filed a claim for a second benefit year effective May 9, 2021. Claimant filed her claim for benefits after she was laid off from her full time employer, Sequel Youth and Family Services, in March 2020. There has been no initial investigation or decision regarding the issue of separation from Sequel Youth.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant continued working for the acquiring employer.

Iowa Code § 96.5-(1)-i provides:

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:

i. The individual is unemployed as a result of the individual's employer selling or otherwise transferring a clearly segregable and identifiable part of the employer's business or enterprise to another employer which does not make an offer of suitable work to the individual as provided under subsection 3. However, if the individual does accept, and works in and is paid wages for, suitable work with the acquiring employer, the benefits paid which are based on the wages paid by the transferring employer shall be charged to the unemployment compensation fund provided that the acquiring employer has not received, or will not receive, a partial transfer of experience under the provisions of section 96.7, subsection 2, paragraph "b". Relief of charges under this paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant was employed by this company, which was sold, and continued employment with the new employer. Accordingly, benefits are allowed, provided the claimant is otherwise eligible, and the account of this former employer shall not be charged.

The issue of separation from employment from Sequel Youth and Family Services shall be remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The June 25, 2021, (reference 01) unemployment insurance decision is modified in favor of the respondent. The claimant continued working for the new owner of the business. Benefits are allowed, provided the claimant is otherwise eligible. The account of this former employer (account number 543144) shall not be charged.

REMAND:

The issue of the separation from claimant's full time employer, Sequel Youth and Family Services, shall be remanded to Benefits Bureau for determination.



Stephanie Adkisson
Administrative Law Judge

August 27, 2021
Decision Dated and Mailed

sa/ol