

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KAMERON F PFAFFLE
Claimant

KWIK TRIP INC
Employer

APPEAL 20A-UI-10348-S1-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (1)

Iowa Code § 96.5-2-a – Discharge for Misconduct
Iowa Code § 96.5-1 - Voluntary Quit
Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Kameron Pfaffle (claimant) appealed a representative's August 21, 2020, decision (reference 01) that concluded ineligibility to receive unemployment insurance benefits due to voluntarily quitting with the Kwik Trip (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 12, 2020. The claimant participated personally and through Jared Nienhouse, Human Resources Manager at Milkhouse Creamery. The employer participated by Leah Gebel, Store Leader. The administrative law judge took official notice of the administrative file.

ISSUE:

The issues include whether the claimant was separated from employment for any disqualifying reason and whether the claimant was able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: On June 13, 2019, the employer hired the claimant as a part-time guest service co-worker. He worked a few nights per week from 6:30 to shortly after midnight. He also worked full-time for Milkhouse Creamery from 10:00 a.m. to 6:00 p.m.

Later, Milkhouse Creamery changed the claimant's hours to 6:00 a.m. to 4:00 p.m. On January 2, 2020, the claimant gave the employer two-week's notice that he was quitting. He quit work because he had a full-time job and was working too many hours. Continued work was available with the employer had he not resigned.

Milkhouse Creamery laid the claimant off due to lack of work and the Covid-19 pandemic from April 3, 2020, through April 22, 2020. On April 22, 2020, the claimant returned to part-time work. On May 25, 2020, the claimant returned to full-time work.

The claimant filed for unemployment insurance benefits with an effective date of April 5, 2020. His weekly benefit amount was determined to be \$447.00. The claimant did not receive state unemployment insurance benefits or Federal Pandemic Unemployment Compensation after April 5, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work 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.

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). The claimant's intention to voluntarily leave work was evidenced by the claimant's words and actions. The claimant gave his resignation and stopped appearing for work. There was no evidence presented at the hearing of good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

Iowa Admin. Code r. 871-24.23(23) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

- (23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). When a person is working full-time, he is not able and available for work. The claimant was working full-time for the employer as of May 25, 2020. The claimant is disqualified from receiving unemployment insurance benefits because the claimant was not available for other work as of the benefit week starting May 24, 2020.

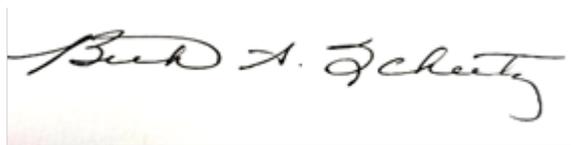
Even though the claimant is not eligible for regular unemployment insurance benefits under state law, he may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates 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 representative's August 21, 2020, decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

The claimant is disqualified from receiving unemployment insurance benefits because the claimant was not available for other work as of the benefit week starting May 24, 2020.

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. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, 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 under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.



Beth A. Scheetz
Administrative Law Judge

October 13, 2020
Decision Dated and Mailed

bas/scn