

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**LOUIS J FOGGIA JR**  
Claimant

**APPEAL NO. 21A-UI-19687-B2-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**APRIA HEALTHCARE INC**  
Employer

**OC: 06/20/21  
Claimant: Appellant (4)**

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Iowa Code § 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated August 31, 2021, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on October 28, 2021. Claimant participated. Employer participated by hearing representative RoxAnne Rose and witness Dodi Weber. Employer's Exhibit 1 was admitted into evidence.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on June 16, 2021. Claimant sent employer an email on June 16 stating that he would work until May 25. (Claimant clarified that this was supposed to be until June 25, 2021.) Employer chose to terminate claimant as of the date when he sent the email.

Claimant worked as an account manager for employer. He attempted to sell products to health care facilities. Claimant had not been meeting quotas and had health problems. His manager gave claimant a first written warning. According to employer's progressive disciplinary policies, there is a second written warning prior to any termination for lack of sales. Claimant had not received a second warning. His job was not in jeopardy at the time of his quit. There was ongoing work available for claimant.

The claimant quit his work effective June 25, 2021. He was terminated effective June 16, 2021 when claimant sent in a note explaining his intent to quit.

**REASONING AND CONCLUSIONS OF LAW:**

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 administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because he was not meeting his quotas. Claimant was not being terminated at the time of his quit. There was ongoing work available for him. Therefore, this is seen as a quit and not a termination.

Iowa Admin. Code r. 871-24.25(38) provides:

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:

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

Claimant is eligible for unemployment benefits from the date of filing an original claim in this matter on June 20, 2021 until the effective date of his quit on June 25, 2021 as employer chose to terminate claimant prior to claimant's quit date.

**DECISION:**

The decision of the representative dated August 31, 2021, reference 01, is modified in favor of claimant. Unemployment insurance benefits are allowed for the dates of June 20 through June 25, 2021 provided claimant is otherwise eligible. Unemployment insurance benefits shall be withheld after the date of June 25, 2021 until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.



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Blair A. Bennett  
Administrative Law Judge

November 12, 2021  
Decision Dated and Mailed

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