

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DONALD L EBERHART**  
Claimant

**HOBBY LOBBY STORES INC**  
Employer

**APPEAL 21A-UI-13233-LJ-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**  
**REOPENED**

**OC: 03/21/21**  
**Claimant: Appellant (4R)**

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Iowa Code § 96.5(1) – Voluntary Quit from Employment

**STATEMENT OF THE CASE:**

On May 30, 2021, claimant Donald L. Eberhart filed an appeal from the May 24, 2021 (reference 01) unemployment insurance decision that denied benefits based on a determination that claimant voluntarily quit his employment for personal reasons.

An initial hearing was scheduled for 9:00 a.m. on Tuesday, August 10, 2021. A telephone conference was held at that time, but procedural issues prevented an administrative law judge from issuing a decision on the merits of that telephone conference. Specifically, claimant was not provided due process and no testimony was taken under oath. Therefore, the record was reopened, and a new hearing was scheduled.

The parties were properly notified of the hearing. A telephonic hearing was held at 8:00 a.m. on Thursday, September 16, 2021. The claimant, Donald L. Eberhart, participated. The employer, Hobby Lobby Stores, Inc., sent in written notice stating it elected not to participate in the hearing. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Did the claimant voluntarily quit his 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:

Claimant began working for employer Hobby Lobby Stores, Inc., sometime in 2017. Throughout his employment, claimant has been employed with the employer as a part-time framer. Claimant remains employed in this position.

On or about March 19, 2020, claimant notified supervisor Brian Whitt that he would be taking a leave of absence due to COVID-19. Claimant believed he was at heightened risk of contracting COVID-19, due to underlying health conditions, and he and his wife both elected to quarantine. He returned to work for one day in May 2020. However, other than that one day, claimant did not work for the remainder of the year.

Claimant continued to quarantine in 2021. He got vaccinated in the spring and waited to ensure that the vaccine was properly protecting him from COVID-19. In June 2021, claimant made contact with the employer about returning to work from his leave of absence. Claimant returned to work on June 20, 2021, and he stopped filing for benefits at that time.

Claimant never expressed an intention to quit his employment. He never told anyone he wanted to end the employment, and the employer never told him that his employment was ending. Continued work appears to have been available for the claimant throughout the leave of absence.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant has not separated from his employment.

Iowa Code section 96.5(1) 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.

Iowa Code § 96.5(2)a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 24.1(113) defines "separations" as follows:

All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. *Layoffs.* A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

b. *Quits.* A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

c. *Discharge.* A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty,

laziness, absenteeism, insubordination, failure to pass probationary period.

*d. Other separations.* Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

Here, the evidence in the record establishes that claimant never separated from his employment with Hobby Lobby Stores, Inc. Rather, he went on an extended leave of absence due to concerns about exposure to COVID-19. Claimant returned to his position once he was vaccinated and felt the work environment was safe for him again. As there has not been a separation from employment, claimant is not disqualified from receiving benefits on this basis.

The issue of whether claimant was available for work and on a voluntary leave of absence is remanded to the Benefits Bureau for determination.

**DECISION:**

The May 24, 2021 (reference 01) unemployment insurance decision is modified in favor of the claimant. There has not been a separation from employment, and there for claimant cannot be disqualified from receiving benefits on that basis.

**REMAND:**

The issues of whether claimant was available for work and whether claimant was on a voluntary leave of absence are remanded to the Benefits Bureau of Iowa Workforce Development for determination.



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Elizabeth A. Johnson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau

September 21, 2021  
Decision Dated and Mailed

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