

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KORA WEST
Claimant

SLB OF IOWA LC
Employer

APPEAL 20A-UI-08206-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20
Claimant: Appellant (4R)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(3)a – Failure to Accept Work
Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

On July 11, 2020, the claimant filed an appeal from the July 9, 2020, (reference 02) unemployment insurance decision that denied benefits based on a voluntary resignation. The parties were properly notified about the hearing. A telephone hearing was held on August 25, 2020. Claimant participated. Employer participated through human resource manager Karen Beard. Claimant's Exhibits A and B were admitted into the record.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Did the claimant refuse a suitable offer of work?
Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on January 19, 2020. Claimant last worked as a part-time associate.

Employer is a Panera Bread restaurant.

Claimant's last day of work was March 14, 2020. In March 2020, the United States declared a public health emergency based on the COVID 19 pandemic. Governor Reynolds issued a proclamation closing all dine-in services at restaurants in Iowa. Employer continued offering carry out services.

On March 19, 2020, employer offered a 12-week voluntary layoff program to its employees. Claimant accepted the offer. Claimant received a letter stating employer would contact her to return to work at the end of the layoff.

Continued work was initially available until March 31, 2020, when employer closed the restaurant completely.

At the end of April 2020, the general manager of the store contacted claimant by telephone to inform her that the store had closed completely. The general manager asked claimant if she would like to return when the store reopened. Claimant stated it would depend on the time of the reopening as she was scheduled to move for college in August 2020. Claimant asked the general manager to contact her at the time of the reopening. The general manager made a note that claimant was moving.

The store reopened the first week of July 2020. Employer did not contact claimant based on the note that she was moving.

Claimant was available to return to work until she moved for college on August 16, 2020. Claimant started a new part-time job the same week.

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.

Iowa Admin. Code r. 871-24.1(113)a provides:

Separations. 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.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.1A, subsection 38, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

In this case, claimant did not resign. She was laid off and was not recalled back to work.

Claimant is not eligible for unemployment insurance benefits during the two weeks ending March 28, 2020, as the layoff was voluntary during that time period. Work was available for claimant—claimant chose not to work. Therefore, she is considered not able to and available for work during that time period.

Claimant is eligible for benefits from March 29, 2020, through August 15, 2020, as she was laid off during that time period through no fault of her own. The lay off from March 29, 2020, up until July 4, 2020, was solely due to COVID 19, as the restaurant was completely closed during that time period. The issue regarding whether employer should be relieved of benefit charges for the 14 weeks ending July 4, 2020, since the layoff during that time was due to COVID 19, will be remanded to the Tax Bureau of Iowa Workforce Development.

After July 4, 2020, claimant was available for work but remained on layoff due to an oversight by employer.

Claimant is not eligible for benefits effective August 16, 2020, as she is now employed again on a part-time basis, just as she was with employer. Therefore, she is no longer considered unemployed.

DECISION:

The July 9, 2020, (reference 02) unemployment insurance decision is modified in favor of claimant. Benefits for the two week period ending March 28, 2020, are denied, as claimant was voluntarily unemployed during that time period. Benefits from March 29, 2020, through August 15, 2020, are allowed. Benefits are denied effective April 16, 2020, as claimant is now employed again on a part-time basis.

REMAND:

The issue of whether employer should be relieved of benefit charges for the 14 weeks ending July 4, 2020, is remanded to the Tax Bureau of Iowa Workforce Development as claimant was unemployed solely due to COVID 19 during that time period.



Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

August 27, 2020
Decision Dated and Mailed

cal/scn

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits during a specific period of time. 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>.