

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KARICE R BRODNAX
Claimant

TEXAS ROADHOUSE HOLDINGS LLC
Employer

APPEAL 21A-UI-10274-AR-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (1R)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

On April 2, 2021, claimant, Karice R. Brodnax, filed an appeal from the March 23, 2021, reference 01, unemployment insurance decision that denied benefits based upon the determination that claimant quit her employment with the employer, Texas Roadhouse Holdings, LLC, without showing good cause for having done so. The parties were properly notified about the hearing held by telephone on June 28, 2021. The claimant participated personally. The employer participated through its hearing representative, Matt Johnson, with witness Lacey Robinson, who did not testify.

ISSUE:

Did the claimant quit her employment with the employer without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed part-time as a server beginning on October 17, 2018, and was separated from employment in June 2020, when she did not return upon being called back after the restaurant's COVID-19 shutdown.

Claimant last worked for the employer on March 16, 2020. The restaurant shut down thereafter due to COVID-19. On June 1, 2020, claimant's supervisor, Robinson, contacted claimant and informed her that the employer was calling employees back to work. If she did not return, Robinson said that claimant would be terminated. Claimant told Robinson she was having symptoms of COVID-19 and had medical conditions that put her at risk of COVID-19. She said she would obtain a doctor's note and be back in touch as soon as she was able.

On June 28, 2020, claimant received a call from another manager, Jake. He inquired about claimant's status. Claimant again informed Jake that she was having symptoms of COVID-19, was at risk from COVID-19 due to medical conditions, and planned to get a doctor's note. She

never sent a doctor's note to the employer, and never performed work for the employer again. Claimant testified that her doctor never released her to return to work.

Claimant did not speak with the employer again until September 2020, when she called to let it know that she was moving out of state in November 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

Iowa Code § 96.5(1)d 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:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871—24.25(35) 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:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

(a) Obtain the advice of a licensed and practicing physician;

(b) Obtain certification of release for work from a licensed and practicing physician;

(c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or

(d) Fully recover so that the claimant could perform all of the duties of the job.

The court in *Gilmore v. Emp't Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004) noted that:

"Insofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." *White v. Emp't Appeal Bd.*, 487 N.W.2d 342, 345 (Iowa 1992) (citing *Butts v. Iowa Dep't of Job Serv.*, 328 N.W.2d 515, 517 (Iowa 1983)).

In 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement added to rule 871—24.26(6)(b), the provision addressing work-related health problems. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Claimant's separation from employment is a voluntary resignation as of June 28, 2020. Though she was told she may be subject to termination by the employer if she did not return, she does not allege that the employer ever told her that her employment was terminated. Though the employer indicated termination might follow, it independently followed up with claimant on June 28, 2020, indicating that it did not consider her separated at least until that time. Instead, claimant told the employer she would seek a doctor's note excusing her from returning to work. Thereafter, she did not provide such a doctor's note to the employer, nor did she maintain regular contact with the employer. She did not request an accommodation, or seek to explore any potential accommodations with the employer. Claimant did not take active steps to remain employed with the employer. The employer states that continuing work would have been available to claimant had she not separated from employment.

Claimant has not established that her medical condition was work related. She did not request an accommodation from the employer before separating. While claimant's leaving may have been based on good personal reasons, it was not for a good-cause reason attributable to the employer under Iowa law. Benefits are denied.

DECISION:

The March 23, 2021, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

REMAND:

The issue of overpayment is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.



Alexis D. Rowe
Administrative Law Judge

July 9, 2021
Decision Dated and Mailed

ar/kmj