

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**PAM S AVAUX**  
Claimant

**VON MAUR INC**  
Employer

**APPEAL 21A-UI-13693-DZ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/21/21**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Pam S Avaux, the claimant/appellant filed an appeal from the June 7, 2021, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on August 11, 2021. Ms. Avaux participated and testified. The employer participated through Tricia Moeller, store manager. Employer's Exhibit 1 was admitted into evidence.

**ISSUE:**

Did Ms. Avaux voluntary quit without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Avaux began working for the employer on March 27, 2006. She worked as an extra associate. She played piano in the store. Ms. Avaux was not guaranteed any hours. She was separated from employment on November 5, 2020.

In March 2020, the United States declared a public health emergency because of the COVID-19 pandemic. Due to the pandemic, the employer temporarily furloughed Ms. Avaux on March 29, 2020. On November 9, 2020, the employer asked Ms. Avaux to return to work at her same job with the same pay but only from November 27 through December 24. The employer told Ms. Avaux that people who were shopping would not be required to wear masks. Ms. Avaux's doctor advised her to not work due to her underlying health conditions that put her at high risk for complications if she tested positive for COVID-19. Based on her doctor's advice, Ms. Avaux resigned on November 5, 2020.

**REASONING AND CONCLUSIONS OF LAW:**

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

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 Admin. Code r. 871-24.25(37) 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:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). 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).

In this case, Ms. Avaux resigned based on her doctor's advice. It is understandable that Ms. Avaux would take such an action to protect her health. However, Ms. Avaux's leaving was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

**DECISION:**

The June 7, 2021, (reference 01) unemployment insurance decision is affirmed. Ms. Avaux 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.



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Daniel Zeno  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax 515-478-3528

August 16, 2021  
Decision Dated and Mailed

dz/lj