

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JULIE BLOYER
Claimant

APPEAL 20A-UI-07431-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

REM IOWA COMMUNITY SERVICES INC
Employer

OC: 05/24/20
Claimant: Respondent (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview
PL 116-136, Sec. 2104(b) – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

On July 2, 2020, the employer filed an appeal from the June 22, 2020, (reference 01) unemployment insurance decision that allowed benefits based on a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on August 7, 2020. Claimant participated personally and through witness Jody Kampe. Employer participated through program director Nicole Guzman and was represented by Susan Chmelovsky. Laura Morris observed.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Has the claimant been overpaid unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?
Can charges to the employer's account be waived?
Is the claimant eligible for Federal Pandemic Unemployment Compensation (FPUC) benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer in March 2015. Claimant last worked as a full-time program supervisor. Claimant was separated from employment on May 25, 2020, when she resigned.

Employer has a policy requiring employees to request time off at least two weeks in advance by filling out a time off request. Employer understands this deadline cannot be met in emergency situations.

During the week of May 10, 2020, claimant participated in a scheduling meeting with upper management. During that meeting, employer assigned claimant to work at a site for which she had not been trained on May 23, 2020. When claimant protested, upper management told her to complete the work as assigned or she would be fired.

Claimant is the caregiver/guardian for her five-year old grandson. Claimant's grandson has medical issues and needed extensive dental surgery. The issue was more complicated because claimant's grandson also has a blood disorder.

On May 13, 2020, claimant received a phone call from the surgeon's office in Iowa City notifying her that the doctor would see her grandson on May 18, 2020, for a physical, on May 21, 2020, to prepare for surgery and test her grandson for COVID 19, and on May 22, 2020, at 8:00 a.m. for surgery. Claimant notified her supervisor, Rosalinda Williams, right away. Claimant let Williams know she would need the days off of work and that she could not work on call on May 21 or 22, 2020. Claimant also let Williams know she found someone to cover her shift on May 23, 2020, the day after the surgery. The surgery was serious and lengthy, and claimant was afraid her grandson would still be recovering or something could go wrong and she would need to be with him the next day. Williams assured her that was fine and she could have the time off.

On May 20, 2020, the night before the surgery and claimant's trip to Iowa City, Williams sent her text messages informing her she would be required to work on call on May 21 and 22, 2020, and work on site on Saturday, May 23, 2020. Upper management directed Williams to do so. Claimant stated she could not work on call for the next two days because she would be in Iowa City. Williams told claimant she was only two hours away, so she could return to Clinton, Iowa, if need be. Claimant advised Williams she could not do that, as she could not leave her five-year old grandson alone in Iowa City. Claimant also stated she could not work on Saturday because she needed to be with her recovering grandson and she had found someone to cover her shift. Claimant reminded Williams she had already approved these requests with no issues. Williams continued to insist claimant work and continued to send text messages to claimant. Claimant finally turned off her cell phone.

Claimant brought her grandson to his appointment on Thursday, May 21, 2020. Before leaving, claimant brought the on-call phone to co-worker Jody Kampe and informed her of the situation.

On Friday, May 22, 2020, claimant sent an email to employer resigning her employment due to the way she had been treated in regard to her request for time off and in regard to other earlier matters.

May 25, 2020, was claimant's last day of work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily left the employment with good cause attributable to the employer.

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. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

In this case, claimant resigned after employer tried to rescind its approval of a time off request the night before claimant's trip to Iowa City for her grandson's emergency surgery. Any guardian would be very anxious the night before leaving for a child to have a lengthy surgery during the middle of a pandemic. The fact employer added on to that by trying to require claimant to work is beyond what a reasonable employee is expected to tolerate. Upper management was involved in the decision to require claimant to work and had warned her the week before she should work as assigned or be terminated. Williams waited until the night before the trip to contact claimant, so claimant did not have an opportunity to contact human resources for help prior to leaving on the trip. The administrative law judge understands employer may be understaffed right now, but claimant is not just an employee—she is a human being with personal needs and feelings outside of work. Claimant established she resigned due to an intolerable work environment.

Because the separation is not disqualifying, claimant has not been overpaid benefits and is allowed Federal Pandemic Unemployment Compensation. PL 116-136, Sec. 2104.

DECISION:

The June 22, 2020, (reference 01) unemployment insurance decision is affirmed. Claimant resigned for a good cause reason attributable to employer. Benefits are allowed, provided claimant is otherwise eligible.



Christine A. Louis
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August 14, 2020
Decision Dated and Mailed

cal/sam