

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JESSICA M CROSS
Claimant

FAMILY DOLLAR SERVICES INC
Employer

APPEAL NO. 21A-UI-14620-B2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/03/21
Claimant: Appellant (4R)**

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 18, 2021, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on August 23, 2021. Claimant participated. Employer participated by Kirsten Witherspoon. Claimant's Exhibits A-B and employer's exhibits 1-2 were admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on February 24, 2021. After that date, claimant had automotive problems and sickness within herself and her family that kept claimant from coming to work.

Claimant worked as a full time inventory control clerk for employer. After February 24 claimant called off work on repeated occasions as a result of car trouble. After getting her car fixed, claimant had covid symptoms and called off work as a result of the symptoms. Following this illness, claimant called off work on March 29, 2021 because of a child's illness. At that time, claimant gave notice that she would be quitting. Employer called claimant back and claimant explained that she had no childcare and did not have another job.

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. 871-24.25(1) 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:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

Iowa Admin. Code r. 871-24.25(17) 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:

(17) The claimant left because of lack of child care.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of a lack of childcare after a period of car trouble, extended illnesses and childcare issues.

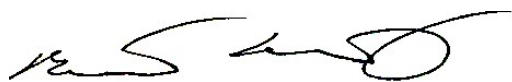
Claimant in this matter quit as of March 29, 2021 as a result of childcare issues. Benefits are denied as of that date. Prior to that date, it appears claimant was not working as she was not able and available for work as a result of a variety of issues. This matter will be remanded to the fact finder for a determination as to whether claimant was able and available to work after February 24, 2021.

DECISION:

The decision of the representative dated June 18, 2021, reference 02, is modified in favor of the claimant. The date of claimant's separation is placed at March 29, 2021. Claimant is not eligible for benefits after that date. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

REMAND:

This matter will be remanded to the fact finder for a determination as to whether claimant was able and available to work after February 24, 2021.



Blair A. Bennett
Administrative Law Judge

August 25, 2021
Decision Dated and Mailed

bab/kmj