

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CONNIE S PETERS**  
Claimant

**APPEAL 18A-UI-05297-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PETERSON CONTRACTORS INC**  
Employer

**OC: 10/08/17  
Claimant: Appellant (4)**

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

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the April 26, 2018, (reference 03) unemployment insurance decision that held claimant ineligible for unemployment insurance benefits. The parties were properly notified about the hearing. A telephone hearing was held on May 25, 2018. Claimant, Connie S. Peters, participated personally. Employer, Peterson Contractors Inc., did not participate. The employer registered a telephone number to be contacted at for the hearing but did not answer when the administrative law judge called the employer to participate. Claimant's Exhibit A was admitted. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

**ISSUES:**

Was the claimant discharged for disqualifying job-related misconduct?  
Did claimant voluntarily quit the employment with good cause attributable to employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant was employed as a seasonal full-time employee. She was an operator/driver beginning April 17, 2017. Mark Peterson was her supervisor.

In October of 2017, claimant was laid off for two weeks due to weather. She filed an initial claim for benefits effective October 8, 2017. In December of 2017, claimant was on a temporary layoff due to weather. She was waiting to be called back to work by this employer. Other workers were called back to work; however, claimant was not called back. Claimant inquired with Mr. Peterson on numerous occasions whether she would be called back to work and received no response from the employer.

Claimant decided to begin looking for a new job and was hired by Baker Enterprises, Inc. ("Baker") effective March 27, 2018; however, she did not physically start working for Baker until April 24, 2018, due to weather conditions. Claimant gave her written two-week notice of

resignation to the employer because she had found employment with Baker. Claimant remained on temporary layoff with this employer until she began working for Baker.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge finds as follows:

Iowa Code §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. 871-24.1(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 Admin. Code r. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

The claimant had been laid off due to lack of work. This layoff is not a disqualifying separation. The claimant then left the employment in order to accept other better employment. As such, benefits are allowed, provided claimant is otherwise eligible.

The employer's account may be charged for benefits paid through benefit week-ending April 21, 2018, due to claimant being temporarily laid off. Thereafter, the employer's account shall not be charged for benefits paid because claimant quit for other employment.

**DECISION:**

The April 26, 2018, (reference 03) unemployment insurance decision is modified in favor of the appellant. The claimant was laid off until April 24, 2018, when she voluntarily left the employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible.

The account of the employer (account number 021010) may be charged for benefits paid through benefit-week ending April 21, 2018 and shall not be charged for benefits paid after April 21, 2018, due to claimant quitting for other employment.

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Dawn Boucher  
Administrative Law Judge

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Decision Dated and Mailed

db/scn