

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALMA NELSON
Claimant

COUNCIL BLUFFS COMM SCHOOL DIST
Employer

APPEAL 20A-UI-06027-HP-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 04/12/20
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Claimant Alma Nelson filed an appeal from a June 5, 2020 (reference 01) unemployment insurance decision that denied benefits based upon her voluntarily quitting work without good cause attributable to the employer, Council Bluffs Community School District (“Council Bluffs CSD”). Notices of hearing were mailed to the parties’ last known addresses of record for a telephone hearing scheduled for July 13, 2020. Nelson appeared and testified. Susan Chmelovsky represented Council Bluffs CSD, but did not testify. Kelly Fischer appeared and testified on behalf of Council Bluffs CSD. Exhibit 1 was admitted into the record. I also took administrative notice of Nelson’s unemployment insurance benefits records maintained by Iowa Workforce Development.

ISSUE:

Did the claimant voluntarily quit the employment with good cause attributable to the employer?

FINDINGS OF FACT:

Nelson commenced her employment as a part-time cook-server for Council Bluffs CSD on November 29, 2018. Nelson worked twenty-five hours per week under a 180-day contract. Lisa Stewart, the Director of Nutrition Services, was Nelson’s direct supervisor.

Nelson owns her own business, AG&G Concessions. Nelson testified her business is like a food truck and she operates her business at festivals and events. Nelson worked part-time for Council Bluffs CSD to supplement her income from her business to send money to her family outside of the country.

Nelson enjoyed working for the Council Bluffs CSD. The last day she worked was in early June 2019, after the students left school for summer break. Nelson was very busy with AG&G Concessions and determined she did not have time to operate her business and to continue to work for Council Bluffs CSD. Nelson sent Stewart a letter dated August 1, 2019, resigning from her position with Council Bluffs CSD. Nelson did not have any complaints about her employment

with Council Bluffs CSD and she resigned to focus on her business. If Nelson had not resigned, there was continuing work available to her with the Council Bluffs CSD.

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: . . . If the individual has left work voluntarily without good cause attributable to the individual’s employer, if so found by the department.” The Iowa Supreme Court has held a “voluntary quit” means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer.” *Wills v. Emp’t Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989). A voluntary quit requires “an intention to terminate the employment relationship accompanied by an overt act carrying out the intent.” *Peck v. Emp’t Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). “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).

871 Iowa Administrative Code 24.25(19) and (37) provide:

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 following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer: . . .

24.25(19) The claimant left to enter self-employment.

24.25(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.

Nelson operated her small business, AG&G Concessions, before she commenced her employment with the Council Bluffs CSD. Nelson sent Stewart a letter of resignation on August 1, 2019. Council Bluffs CSD accepted her resignation. Nelson testified she quit to concentrate on AG&G Concessions. Nelson reported she enjoyed her employment with the Council Bluffs CSD and she left on good terms. Nelson has not established she quit with good cause attributable to the Council Bluffs CSD.

DECISION:

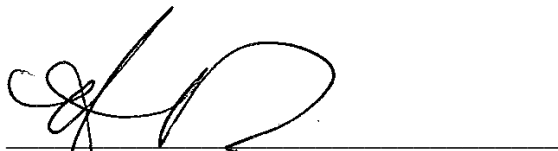
Regular Unemployment Insurance Benefits Under State Law

The June 5, 2020 (reference 01) unemployment insurance decision denying unemployment insurance benefits is affirmed. Claimant voluntarily quit her employment with the employer on August 8, 2019. Unemployment insurance benefits are denied until the claimant has worked in and earned wages for insured work equal to ten times her weekly benefit amount after her separation date, and provided she is otherwise eligible.

Pandemic Unemployment Assistance (“PUA”) Under the Federal CARES Act

Nelson is self-employed and operates her own small business that has been impacted by Covid-19. As I discussed with the parties during the hearing, even though the claimant is not eligible for regular unemployment insurance benefits under state law, the claimant may be eligible for federally funded unemployment insurance benefits under the CARES Act. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (“PUA”) that may provide up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive an additional \$600 weekly benefit amount under the Federal Pandemic Unemployment Compensation program if the individual is eligible for PUA benefits for the week claimed. This decision does not address whether the claimant is eligible for PUA. If the claimant wishes to receive PUA benefits, the claimant must apply for PUA, as noted in the instructions provided in the “Note to Claimant” below:

Note to Claimant: If this decision determines you are not eligible for regular unemployment insurance benefits and you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (“PUA”). **You will need to apply for PUA to determine your eligibility under the program. Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.** This decision denies benefits. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.



Heather L. Palmer
Administrative Law Judge
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Iowa Workforce Development
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Des Moines, Iowa 50319-0209
Fax (515) 478-3528

July 21, 2020
Decision Dated and Mailed

hlp/scn