

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DEANA C QUICK ROMIG
Claimant

**WAUKEE COMMUNITY SCHOOL
DISTRICT**
Employer

APPEAL 21A-UI-17468-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20
Claimant: Appellant (4R)

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

STATEMENT OF THE CASE:

On June 16, 2021, Deana Quick Romig (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated June 8, 2021 (reference 05) that disqualified claimant from unemployment insurance benefits based on a finding she voluntarily quit work on May 29, 2020 for personal reasons.

A telephone hearing was held on September 23, 2021. The parties were properly notified of the hearing. The claimant participated personally. Waukee Community School District (employer/respondent) participated by HR Generalist Lilly Lomica.

Claimant's Exhibits 1-11 were admitted. Official notice was taken of the administrative record.

ISSUE(S):

- I. Was the separation from employment a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

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

Claimant worked for employer as a substitute teacher. Claimant's first day of employment was at the beginning of the 2019-2020 school year. The last day claimant worked on the job was in mid-March 2020 when the pandemic began and schools closed. Claimant separated from employment on July 27, 2020. Claimant resigned at that time due to personal and family health concerns and to assist children with schooling in her home.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the decision dated June 8, 2021 (reference 05) that disqualified claimant from unemployment insurance benefits based on a finding she voluntarily quit work on May 29, 2020 for personal reasons is MODIFIED in favor of appellant.

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.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). "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". Id. (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). 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).

Employer has carried its burden of proving claimant's departure from employment was voluntary. However, claimant has not carried her burden of proving the voluntary leaving was for good cause attributable to employer. Claimant separated from employment on July 27, 2020. Claimant resigned at that time due to personal and family health concerns and to assist children with schooling in her home. These are not good cause reasons for resigning attributable to employer. Benefits must therefore be denied effective with the date of separation. The decision is modified to reflect the date of separation and thus the date of disqualification was July 27, 2020 rather than May 29, 2020.

The administrative law judge notes claimant was allowed Pandemic Unemployment Assistance (PUA) in a decision dated September 22, 2020. Claimant appealed that decision due to disagreement with the weekly benefit amount. Another administrative law judge issued a decision on February 4, 2021, remanding that matter to the Department. See 20A-DUA-00530-JT-T. It does not appear further action has been taken on that since.

DECISION:

The decision dated June 8, 2021 (reference 05) that disqualified claimant from unemployment insurance benefits based on a finding she voluntarily quit work on May 29, 2020 for personal

reasons is MODIFIED in favor of appellant. Claimant's separation from employment was disqualifying. The separation occurred on July 27, 2020. Claimant is disqualified from benefits from that date and employer's account shall not be charged. This disqualification shall continue until claimant has earned wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is not otherwise disqualified or ineligible.

REMAND:

This matter is remanded to the Department for a determination as to claimant's PUA eligibility and weekly benefit amount, consistent with this order and the order in 20A-DUA-00530-JT-T.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

September 29, 2021
Decision Dated and Mailed

abd/ol

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.