

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHAEL L PELZ
Claimant

STEPHANIE KRUGER
SENECA FOUNDRY INC
Employer

APPEAL 20A-UI-09745-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/15/19
Claimant: Appellant (1)

Iowa Code § 96.5-2-a – Discharge for Misconduct
Iowa Code § 96.5-1 - Voluntary Quit
Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Michael Pelz (claimant) appealed a representative's August 6, 2020, decision (reference 02) that concluded ineligibility to receive unemployment insurance benefits due to voluntarily quitting with the Stephanie Kruger (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 29, 2020. The claimant participated personally. The employer participated by Lori Mason, President.

The claimant offered and Exhibit A was received into evidence. Exhibit D-1 was received into evidence. The administrative law judge took official notice of the administrative file.

ISSUES:

The issues include whether the claimant was separated from employment for any disqualifying reason, whether the claimant was overpaid benefits, which party should be charged for those benefits, and whether the claimant is eligible for Federal Pandemic Unemployment Compensation.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on October 31, 2016, as a full-time quality technician. He was diagnosed with depression and had issues with the work environment. In April 2020, a supervisor reviewed documents from files and then asked the claimant to refile the documents. The claimant thought too many people were acting like leaders at work. The employer trained him to perform his job one way and then the employer changed the tasks.

The claimant talked to the president about his concerns but did not ask for a medical accommodation. The claimant did not have a doctor's note indicating restrictions. He did not have a note stating he should quit work.

From March 26, 2020, through April 12, 2020, the claimant was on a leave of absence to care for his spouse and child. He returned and worked from April 13, 2020, through April 19, 2020. The claimant was on a leave of absence from April 20, 2020, through May 8, 2020, because he was exposed to Covid-19. No one in the claimant's household tested positive for the virus.

While on leave, the president sent a message to the claimant asking when he thought he might return. On May 8, 2020, the claimant sent a message to the president saying he would not be returning. Continued work was available with the employer had he not resigned.

The claimant filed for unemployment insurance benefits with an effective date of December 15, 2019. His weekly benefit amount was determined to be \$591.00. The employer participated in the fact-finding interview on May 8, 2020. The claimant filed an additional claim on May 31, 2020. The claimant received benefits from December 22, 2019, to the week ending May 2, 2020, for a total of \$4,064.00 in state unemployment insurance benefits after the separation from employment. He also received \$2,400.00 in Federal Pandemic Unemployment Compensation for the four-week period ending May 2, 2020. He did not receive any benefits after his separation from employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without 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. 871-24.25(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

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). The claimant's intention to voluntarily leave work was evidenced by words and actions. When employees quit work because of dissatisfaction with the work environment, their leaving is without good cause attributable to the employer. The claimant left work because he did not like his changing work environment. His

leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). There was no evidence offered that the claimant was not able and available for work after his separation from employment.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, he may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

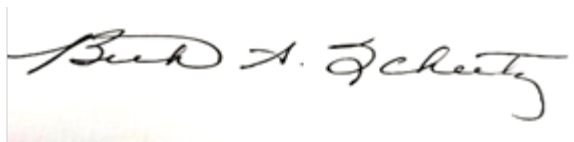
The claimant did not receive any benefits after the separation from employment. The benefits received prior to his separation have been addressed in 20A-UI-03983-B2.

DECISION:

The representative's August 6, 2020, decision (reference 02) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible. The claimant is able and available for work as of May 8, 2020.

The claimant did not receive any benefits after the separation from employment. The benefits received prior to his separation have been addressed in 20A-UI-03983-B2.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If 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 due to disqualifying separations, 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>.

A handwritten signature in black ink, reading "Beth A. Scheetz", is positioned above a horizontal line.

Beth A. Scheetz
Administrative Law Judge

September 30, 2020
Decision Dated and Mailed

bas/scn