

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

PAULITA M WITHERSPOON
Claimant

APPEAL NO. 20A-UI-03660-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA PREMIUM LLC
Employer

OC: 03/22/20
Claimant: Appellant (1)

Iowa Code Section 96.5(1)(C) – Voluntary Quit to Care for Ill Family Member

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 30, 2020, reference 01, decision that held she was disqualified for benefits and the employer's account would not be charged for benefits, based on the deputy's conclusion that the claimant voluntarily quit on March 22, 2020 without good cause attributable to the employer. After due notice was issued, a hearing was held on May 20, 2020. Claimant participated. The employer did not provide a telephone number for the hearing and did not participate. Exhibit A was received into evidence.

ISSUE:

Whether the claimant's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time management support worker from 2017 and last performed work for the employer on March 12, 2020. At that time, the claimant commenced an approved leave of absence under the Family and Medical Act (FMLA) so that she could care for her mother who was suffering from multiple serious medical conditions including cognitive issues and liver issues. After the claimant had been off work for a week, she determined she could not remain off work without income. The claimant was not in a position to return to the employment. Instead, the claimant gave notice to the employer that she was quitting the employment effective immediately in the hope of receiving unemployment insurance benefits while she continued to care for her seriously ill mother. The quit was effective on or about March 21, 2020. The claimant's mother's health subsequently further declined. The claimant has continued to be in the position of needing to provide care for her mother and, for that reason, has not attempted to return to the employment. The claimant has had no other employment since leaving Iowa Premium, L.L.C.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1)(c) 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. But the individual shall not be disqualified if the department finds that:

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer, provided, however, that during such period the individual did not accept any other employment.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence in the record indicates a March 21, 2020 voluntary quit that was without good cause attributable to the employer. The sole basis for the quit was the claimant's need to care for her ill mother. The claimant's mother has not recovered and continues to need the claimant's assistance. For that reason, the claimant has not returned to the employer to offer her services. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to 10 times weekly her benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits. When the claimant's mother recovers or reaches the point where the claimant's assistance is no longer needed, if the claimant then immediately contacts the employer to request to return to the employment and if the employer has no work available, then the separation may at that time become for good cause attributable to the employer and the claimant may be eligible for benefits, provided she meets all other eligibility requirements and has not worked in other employment in the interim.

DECISION:

The April 30, 2020, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer and for the sole purpose of caring for her seriously ill mother. The quit was effective March 21, 2021. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits. When the claimant's mother recovers or reaches the point where the claimant's assistance is no longer needed, if the claimant then immediately contacts the employer to request to return to the employment and if the employer has no work available, then the separation may become for good cause attributable to the employer and the claimant may be eligible for benefits, provided she meets all other eligibility requirements and has not worked in other employment in the interim, and the employer's account may be charged for benefits.

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>.



James E. Timberland
Administrative Law Judge

May 29, 2020
Decision Dated and Mailed

jet/mh