

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JENNIFER L MCATEE
Claimant

APPEAL 20A-UI-14496-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CITY OF INDEPENDENCE
Employer

**OC: 07/19/20
Claimant: Appellant (4)**

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

STATEMENT OF THE CASE:

Jennifer L McAtee, the claimant/appellant, filed an appeal from the November 2, 2020, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on January 11, 2021. Ms. McAtee participated and testified. The employer participated through Al Roder, city manager. Claimant's Exhibit 1 was admitted into evidence.

ISSUE:

Was Ms. McAtee's separation a layoff, discharge for misconduct or voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Ms. McAtee began working for the employer on June 11, 2019. She worked as a full-time associate clerk. On May 4, 2020, Ms. McAtee gave the employer a written notice of her intention to resign on May 14, 2020. The employer accepted her resignation and Ms. McAtee's last day at work was May 14, 2020. Ms. McAtee resigned to accept a new job at Randstad. Ms. McAtee had become dissatisfied with her job, in particular, the lack of training from her employer. The employer continued to have work for Ms. McAtee at the time she separated from the employment.

REASONING AND CONCLUSIONS OF LAW:

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.

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

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5

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.

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:

In this case, Ms. McAtee voluntarily quit without good cause attributable to the employer. Accordingly, that employer's account will not be charged for benefits. Because Ms. McAtee quit to accept other employment, the quit from the City of Independence does not disqualify her from unemployment insurance benefits. Ms. McAtee is eligible for benefits, provided she meets all other eligibility requirements.

DECISION:

The November 2, 2020, (reference 01) unemployment insurance decision is modified in favor of Ms. McAtee, the claimant/appellant, as follows. Ms. McAtee voluntarily quit without good cause attributable to the employer to accept other employment. The quit was effective May 14, 2020. Ms. McAtee is eligible for benefits, provided she meets all other eligibility requirements. The employer's account will not be charged for benefits. Wage credits earned from Ms. McAtee's employment with the City of Independence shall be charged to the unemployment compensation fund.



Daniel Zeno
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March 3, 2021
Decision Dated and Mailed

dz/scn