

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**RANDALL J SCHEEL**  
Claimant

**HY VEE INC**  
Employer

**APPEAL 21A-UI-07189-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

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

Iowa Admin. Code r. 871-24.23(26) – Able & Available – Availability Disqualifications  
Iowa Code § 96.19(38) – Total and Partial Unemployment  
Iowa Code § 96.7(2)a(2) – Same Base Period Employment  
Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Code § 96.5-2-a – Discharge for Misconduct  
Iowa Code § 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Randall Scheel (claimant) appealed an Iowa Workforce Development March 5, 2021, decision (reference 03) that denied benefits based on his separation from Hy-Vee (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 19, 2021. The claimant participated personally. The employer was represented by Barbara Buss, Hearings Representative, and participated by Connie Heidermann, Human Resources Manager.

The administrative law judge took official notice of the administrative file. 21A-UI-07188.S1, 21A-UI-07189.S1, and 21A-UI-07190.S1 were heard at the same time. The parties agreed to waive notice of the issues of separation and allow adjudication on the matter.

**ISSUES:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer hired the claimant on January 2, 2020, as a part-time deliver driver. He worked approximately twenty-six hours per week and was paid \$10.00 per hour, or \$260.00 per week.

On or about March 22, 2020, the employer offered the claimant a job as a courtesy clerk. His main task would be retrieval of shopping carts. His hours were 11:00 a.m. to 5:00 p.m., Monday through Friday. The claimant accepted the position at the same \$10.00 hourly rate, or \$300.00 per week. The claimant filed for unemployment insurance benefits with an effective date of March 22, 2020. His weekly benefit amount was determined to be \$154.00. Hours were always

available. The claimant often called in or left early due to back pain. For the week ending April 4, 2020, the claimant worked thirty-one hours. For the three weeks ending April 25, 2020, the claimant worked twenty hours.

At some point, the claimant provided the employer with a doctor's note limiting his hours due to the condition of his back. Based on the physician's note, the employer reduced the claimant's hours to 11:00 a.m. to 3:00 p.m., Monday to Friday or twenty hours per week. Even with the reduction in hours, the claimant frequently left work early due to back pain. For the two weeks ending June 13, 2020, the claimant worked sixteen hours. For the week ending June 20, 2020, the claimant worked five hours. For the week ending June 27, 2020, the claimant worked thirty minutes for the week.

On June 23, 2020, the employer sent the claimant home for the day because two people were scheduled to do the same work for the same shift. The claimant never returned to work even though he was scheduled. On July 2, 2020, the human resources manager called the claimant and asked if he planned to return. The employer had work available for the claimant as a courtesy clerk. The claimant told the human resources manager that he did not plan to return to work. The claimant now believes he is unable to work due to his medical issues.

#### **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.

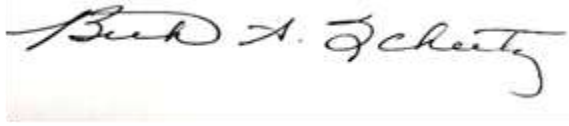
A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by the claimant's actions. The claimant stopped appearing for work even though work was available. There was no evidence presented at the hearing of good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

The issue of whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

#### **DECISION:**

The March 5, 2021, (reference 03) unemployment insurance decision 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 issue of whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

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

---

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

May 26, 2021  
Decision Dated and Mailed

bas/ol