

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ANITA J CURLEY

Claimant

AGAPE REHABILITATION AGENCY INC

Employer

APPEAL 20A-UI-03986-BH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20

Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview
Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search
Iowa Code § 17A.12(3) – Default Decision
Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default
Public Law 116-136, Sec. 2104(b) – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Claimant appealed the May 6, 2020 (reference 01) unemployment insurance decision that denied benefits due to Claimant quitting her job with Agape without good cause attributable to the employer. Notices of hearing were mailed to the parties' last known addresses of record for a telephone hearing scheduled for May 27, 2020, at 2:00 p.m. Claimant participated personally. Sue Truex participated for the employer.

The agency issued a notice of hearing that did not identify eligibility for unemployment insurance benefits under state law as an issue even though the fact-finding decision Claimant appealed found her ineligible because she quit without good cause attributable to the employer. The parties waived the ten-day notice requirement and agreed to have the hearing and decision address whether Claimant was eligible for unemployment insurance benefits under state law due to her voluntarily quitting her job with the employer. Both sides were prepared and presented evidence regarding Claimant quitting her job with the employer.

ISSUE:

Whether Claimant is eligible for unemployment insurance benefits under state law due to the reason for her voluntarily quitting her job with the employer.

FINDINGS OF FACT:

The parties agree that Claimant quit her job with the employer to enter into self-employment as a massage therapist. Claimant started her own business as a massage therapist. She was the sole proprietor. She worked in that job after she quit employment with Agape until the Governor

issued a proclamation due to COVID-19 ordering massage therapists to stop providing such services due to the pandemic outbreak in Iowa.

Claimant filed for state unemployment insurance benefits because she was not sure how relief programs for sole proprietors impacted by COVID-19 worked. She then appealed the agency fact-finding decision finding her ineligible for benefits under state law in order to keep her claim alive because she was unsure of how state unemployment benefits interacted with federal pandemic relief benefits for sole proprietors. After the agency issued notice of this appeal hearing, it sent Claimant a letter informing her she is eligible for relief assistance under the federal Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. The agency has issued Claimant federal benefits pursuant to that determination.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Claimant's separation from employment with Agape was without good cause attributable to the employer under state law.

The Iowa Employment Security Law governs eligibility for state unemployment insurance benefits. Iowa Code section 96.5(1) states:

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.

Iowa Administrative Code rule 871-24.25 states in pertinent:

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:

(19) The claimant left to enter self-employment.

Thus, when an employee quits her job to enter self-employment, she is presumed under Iowa law to have quit without good cause attributable to the employer. In the current case, both parties agree that Claimant quit her job with the employer on or about March 1, 2019, to enter into self-employment as a massage therapist. Therefore, Claimant is ineligible for state unemployment benefits due to the nature of her quit from employment with Agape on March 1, 2019.

DECISION:

The May 6, 2020 (reference 01) unemployment insurance decision denying unemployment insurance benefits under state law is affirmed.

Nothing in this decision impacts Claimant's eligibility for benefits under the federal 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 she is eligible for such compensation for the week claimed.



Ben Humphrey
Administrative Law Judge

June 10, 2020
Decision Dated and Mailed

bgh/sam

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.
- If you do not qualify for regular unemployment insurance benefits due to disqualifying separations and are currently unemployed for reasons related to COVID-19, you 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>.