

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DUNG Q DAO
Claimant

FAIRY TALE COTTON CANDY
Employer

APPEAL NO. 20A-UI-14394-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

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

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the November 2, 2020, reference 04, decision that disqualified the claimant for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that the claimant voluntarily quit on April 21, 2020 without good cause attributable to the employer. After due notice was issued, a hearing was held on January 11, 2021. Claimant, Dung Dao, participated. Jenny Kroells represented the employer. Vietnamese-English interpreter Duyem Le of CTS Language Link assisted with the hearing.

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 by the employer as a part-time cotton candy production worker from 2019 until March 23, 2020, when he voluntarily quit to stay home and care for his minor children after their school closed due to COVID-19. The employer had ongoing work for the claimant at the time he separated from the employment. The employer was the claimant's sole employment and was not supplement in nature.

REASONING AND CONCLUSIONS OF LAW:

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.

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).

Iowa Admin. Code r. 871-24.25(17) 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:

(17) The claimant left because of lack of child care.

The evidence in the record indicates a voluntary quit without good cause attributable to the employer, based on a lack of child care. Accordingly, the claimant is disqualified for regular benefits until the claimant has worked in and been paid wages for insured work equal to ten times the claimant's weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

DECISION:

The November 2, 2020, reference 04, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The quit date was March 23, 2020, not April 21, 2020. The claimant is disqualified for benefits until the claimant has worked in and been paid wages for insured work equal to ten times the claimant's weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. 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 under state law 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.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you will be required to repay the benefits you have received.**



James E. Timberland
Administrative Law Judge

January 29, 2021
Decision Dated and Mailed

jet/scn