

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALONDRA ORDAZ-TORRES
Claimant

IOWA ORTHOPAEDIC CENTER PC
Employer

APPEAL 20A-UI-03064-JC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20
Claimant: Appellant (4)

Iowa Code § 96.5(1)a – Voluntary Quitting – Other Employment
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)

STATEMENT OF THE CASE:

The claimant/appellant, Alondra Ordaz-Torres, filed an appeal from the April 8, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on May 7, 2020. The claimant participated personally. Tina Jayne also participated for the claimant. The employer, Iowa Orthopaedic Center PC., did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing.

The issue of possible overpayment of regular benefits and also of Federal Pandemic Unemployment Compensation (FPUC) benefits was identified but not properly noticed. The claimant waived proper notice.

The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Is the claimant overpaid benefits?
Is the claimant eligible for Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

The claimant worked for this employer, Iowa Orthopaedic Center PC., from September 2017 until January 24, 2020 as a full-time receptionist. She quit the employment to accept new employment effective February 5, 2020. Continuing work was available.

The claimant is currently employed at Central Iowa Orthodontics, but filed her claim for unemployment insurance benefits in response to a reduction in hours due to COVID-19.

Despite being denied benefits at initial fact-finding, the decision was made by Iowa Workforce Development to release funds of claimants while their appeals were pending due to the backlog in appeals caused by the recent COVID 19 outbreak. Claimant was one of the individuals whose funds were released pending appeal. The administrative record shows, claimant filed for and received a total of \$2,442.00 in unemployment insurance benefits since establishing her claim for benefits with an effective date of March 15, 2020.

The claimant also received federal unemployment insurance benefits through Federal Pandemic Unemployment Compensation (FPUC). Claimant received \$3,000.00 in federal benefits for the five week period ending May 5, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant quit her employment with Iowa Orthopaedic Center PC., to accept new employment with Central Iowa Orthodontics. Benefits are allowed, provided she is otherwise eligible.

Iowa Code section 96.5(1)a 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:

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.

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. 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. No charge shall accrue to the account of the former voluntarily quit employer.

Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment but was separated before having started the new employment. Accordingly, benefits are allowed and the account of this employer, Orthopaedic Center PC, shall **not** be charged.

Because the claimant is eligible for benefits, she is not overpaid regular or federal (FPUC) benefits.

DECISION:

The unemployment insurance decision dated April 8, 2020, (reference 01) is modified in favor of the claimant/appellant. The claimant voluntarily left the employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of this employer shall not be charged.



Jennifer L. Beckman
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May 11, 2020
Decision Dated and Mailed

jlb/scn