

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JOHN BINDNER**  
Claimant

**PETSEL VENTURES LLC**  
Employer

**APPEAL 20A-UI-09995-HP-T  
ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/29/20  
Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2) – Discharge Due to Misconduct  
Iowa Code § 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

Claimant John Bindner filed an appeal from an August 11, 2020 (reference 01) unemployment insurance decision that denied benefits based upon him voluntarily quitting work without good cause attributable to the employer, Petsel Ventures LLC (“Iowa River Power Company”). Notices of hearing were mailed to the parties’ last known addresses of record for a telephone hearing scheduled for October 7, 2020. Bindner appeared and testified. Denise Petsel appeared and testified on behalf of Iowa River Power Company. I took administrative notice of the claimant’s unemployment insurance benefits records maintained by Iowa Workforce Development.

**ISSUE:**

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause?

**FINDINGS OF FACT:**

On February 18, 2016, Bindner commenced full-time employment as a lead cook for Iowa River Power Company. His immediate supervisor at the end of his employment was Todd Boehler.

Bindner worked on Valentine’s Day, February 14, 2020. He was scheduled to work the next day, February 15, 2020. Bindner did not show up for work or call to report he was going to be absent. Petsel called him the next day and Bindner told her he could not take it anymore and he was going to resign to become a full-time Uber Driver. Petsel testified employees in the food industry become burned out and she accepted his resignation. There was continuing work available to Bindner at the restaurant when he resigned. He was not in danger of being terminated or subject to layoff.

Bindner testified he was tired of working in the restaurant and of the commute. He was also tired of a coworker who he said was rude. Bindner did not report the coworker directed any vulgar or profane words toward him. He said the coworker had a bad attitude and was rude. Petsel agreed Bindner’s coworker was rude on occasion. Bindner reported he had been working part-time as an Uber driver twenty hours per week and he decided to drive for Uber full-time.

## REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6(2) requires an appealing party to file an appeal of an unemployment decision within ten days after the mailing date. Bindner testified his home was severely damaged by the derecho storm. I find his appeal was timely under the circumstances.

Iowa Code section 96.5(1) provides an individual “shall be disqualified for benefits, regardless of the source of the individual’s wage credits: . . . If the individual has left work voluntarily without good cause attributable to the individual’s employer, if so found by the department.” The Iowa Supreme Court has held a “voluntary quit” means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer.” *Wills v. Emp’t Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989). A voluntary quit requires “an intention to terminate the employment relationship accompanied by an overt act carrying out the intent.” *Peck v. Emp’t Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). “Good cause” for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm’n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

871 Iowa Administrative Code 24.25(19), (21), and (30) provide:

**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 following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer: . . . .

**24.25(19)** The claimant left to enter self-employment.

**24.25(21)** The claimant left because of dissatisfaction with the work environment.

**24.25(30)** The claimant left due to the commuting distance to the job; however, the claimant was aware of the distance when hired.

871 Iowa Administrative Code 24.26(4) also provides,

**Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits.** The following are reasons for a claimant leaving employment with good cause attributable to the employer:

**24.26(4)** The claimant left due to intolerable or detrimental working conditions.

Bindner resigned from his job because he was tired of the commute, tired of cooking, and he wanted to drive for Uber full-time. Bindner also had a coworker he did not get along with. I do not find his working conditions were detrimental or intolerable where a reasonable person would feel compelled to quit. Bindner quit his employment because he did not want to commute anymore and he wanted to work as an Uber driver full-time. Bindner was aware of the commuting distance when he accepted his position. I find Bindner voluntarily quit his position without good cause attributable to his employer. Benefits are denied.

## DECISION:

### Regular Unemployment Insurance Benefits Under State Law

The August 11, 2020 (reference 01) unemployment insurance decision denying unemployment insurance benefits is affirmed. Claimant voluntarily quit the claimant's employment with the employer on February 15, 2020. Unemployment insurance benefits are denied until the claimant has worked in and earned wages for insured work equal to ten times the claimant's weekly benefit amount after the claimant's separation date, and provided the claimant is otherwise eligible.

### **Pandemic Unemployment Assistance ("PUA") Under the Federal CARES Act**

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, the claimant may be eligible for federally funded unemployment insurance benefits under the CARES Act. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance ("PUA") that may provide up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive an additional \$600 weekly benefit amount under the Federal Pandemic Unemployment Compensation ("FPUC") program if the individual is eligible for PUA benefits for the week claimed. The FPUC additional \$600 payment per week ended as of July 25th in Iowa. This means the \$600 weekly additional benefit stopped and at this time, no extension or change to the program has been made by Congress at this time. This does mean that you will see a corresponding decrease in your weekly benefit amount. The FPUC payments are not a state benefit and Iowa is unable to make any changes to the availability of this benefit. If a change takes place to this benefit in the future, IWD will share on the IWD website and social media. This decision does not address whether the claimant is eligible for PUA. If the claimant wishes to receive PUA benefits, the claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below:

**Note to Claimant:** If this decision determines you are not eligible for regular unemployment insurance benefits and 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. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 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>.** This decision denies benefits. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.



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Heather L. Palmer  
Administrative Law Judge  
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October 8, 2020  
Decision Dated and Mailed

hlp/scn