DESSENCE MORRIS Claimant **DICK'S SPORTING GOODS** Employer	**APPEAL 20A-UI-13137-SN-T** **ADMINISTRATIVE LAW JUDGE** **DECISION** **OC: 03/29/20** **Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

Claimant filed an appeal from the October 14, 2020 (reference 01) unemployment insurance decision that concluded claimant was not eligible for unemployment insurance benefits. Iowa Workforce Development mailed a hearing notice to the claimant and employer for a telephone hearing scheduled for December 22, 2020, at 1:00 p.m. The claimant participated personally. The employer participated through Hearing Representative Thomas Kuiper and Human Resources Generalist Tina Meraz.

ISSUE:

Whether claimant quit without good cause attributable to the employer?

FINDINGS OF FACT:

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

Claimant worked for the employer for several different seasonal stints as a part time cashier. The last stint occurred from December 19, 2019 to January 26, 2020. The claimant's immediate supervisor was Store Manager Richard Mittan.

On January 26, 2020, the claimant sent in her two week notice because she was going to attend college. The claimant said she could not commute to any of the employer's various stores near her college for its semester.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant quit voluntarily without good cause attributable to the employer:

Iowa Code section 96.5(1) provides:

> 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 Admin. Code r. 871-24.25 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:
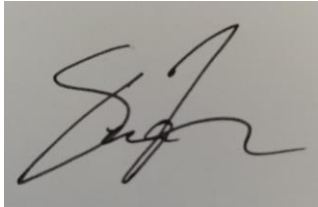
(2) The claimant moved to a different locality.

(26) The claimant left to go to school.

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 her words and actions. She told the employer she was leaving and quit work. When an employee quits work because she is moving to a different location, her leaving is without good cause attributable to the employer. The claimant left work because she gave notice to the employer that she was moving to a different locality. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The October 14, 2020 (reference 1), unemployment insurance decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Sean M. Nelson
Administrative Law Judge
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   December 31, 2020
Decision Dated and Mailed

smn/mh