

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**ASHTYN KELLER**  
Claimant

**ALDI INC**  
Employer

**APPEAL 20R-UI-07255-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/15/20**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
PL 116-136, Sec. 2104(b) – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

On May 1, 2020, the claimant filed an appeal from the April 29, 2020, (reference 01) unemployment insurance decision that denied benefits based on a separation from employment. A hearing was originally scheduled to take place on May 20, 2020. The claimant did not appear for the hearing and the appeal was dismissed. The claimant filed an appeal of the dismissal with the Employment Appeal Board (EAB). The EAB remanded the case for a new hearing. The parties were properly notified about the hearing. A telephone hearing was held on August 5, 2020. Claimant participated. Employer did not register for the hearing and did not participate.

**ISSUES:**

Did claimant voluntarily quit the employment with good cause attributable to employer?  
Was the claimant overpaid unemployment insurance benefits?  
Is the claimant eligible for Federal Pandemic Unemployment Compensation (FPUC) benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on November 9, 2017. Claimant last worked as a full-time store associate. Claimant was separated from employment on March 13, 2020, when she resigned.

When claimant was hired, employer informed her that she could be assigned to work days or nights. In January of February 2019, a new store manager, Marnie, took over and began assigning claimant to work nights only.

In June 2019, claimant learned she was pregnant. Claimant let store manager, Marnie, know that she would need a day shift position after she had her baby due to childcare issues. Marnie never told claimant she would assign her to work the day shift.

January 30, 2020, was claimant's last day on the job. Claimant had her baby and took an eight-week maternity leave. Claimant was scheduled to return to work on March 23, 2020, but was unable to find nighttime childcare.

On March 6, 2020, claimant spoke with district manager, Shelby, about the issue. Shelby told claimant they could move her to day shift, but they only had part-time hours available. That would mean claimant would lose her employee benefits.

On March 13, 2020, claimant informed Shelby she had to resign because she did not have nighttime childcare.

Claimant is aware of other employees with less seniority that employer has worked with on scheduling issues.

Before Iowa Workforce Development issued the decision denying benefits, claimant filed for and received \$1,450.00 in regular, state-funded unemployment insurance benefits for the five weeks ending April 25, 2020.

Based on a review of the administrative record, claimant also received Federal Pandemic Unemployment Compensation (FPUC) in the amount of \$1,800.00 for the three weeks ending April 25, 2020.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

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.

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.

Iowa Admin. Code r. 871-24.25(18) 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:

(18) The claimant left because of a dislike of the shift worked.

In this case, claimant left employment for personal reasons. Although they may have been good personal reasons, claimant did not establish she resigned with good cause attributable to employer.

Since the original decision remains in effect and claimant is disqualified from receiving unemployment insurance benefits, the next issue in this case is whether the claimant was overpaid unemployment insurance benefits.

Iowa Code § 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

Since the decision disqualifying the claimant remains in effect, the claimant was overpaid \$1,450.00 in regular, state-funded unemployment insurance benefits. Claimant is required to repay those benefits.

The administrative law judge additionally concludes claimant has been overpaid Federal Pandemic Unemployment Compensation.

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment.--In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

Here, the claimant is disqualified from receiving regular unemployment insurance (UI) benefits. Accordingly, this also disqualifies claimant from receiving Federal Pandemic Unemployment Compensation (FPUC). In addition to the regular UI benefits claimant received, claimant also received an additional \$1,800.00 in FPUC benefits for the three weeks ending April 25, 2020. Claimant is required to repay those benefits.

**DECISION:**

The April 29, 2020, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the 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. Claimant has been overpaid regular unemployment insurance benefits in the amount of \$1,450.00 and FPUC benefits in the amount of \$1,800.00 and is required to repay those benefits.



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Christine A. Louis  
Administrative Law Judge  
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Des Moines, Iowa 50319-0209  
Fax (515)478-3528

August 13, 2020  
Decision Dated and Mailed

cal/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. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, 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>.