

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**EMMA A KIMMEL**  
Claimant

**J&D RESTAURANTS INC**  
Employer

**APPEAL 20A-UI-05298-CL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/05/20**  
**Claimant: Appellant (1)**

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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 June 4, 2020, the claimant filed an appeal from the May 27, 2020, (reference 02) unemployment insurance decision that denied benefits based on a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on July 6, 2020. Claimant participated personally and through witnesses Linda Alvarez-Jones and Cameron Danilson. Employer participated through office manager Allison McAninch.

**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)?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on February 14, 2020. Claimant last worked as a part-time crew member. Claimant was separated from employment on May 22, 2020, when she resigned.

Employer hired claimant to work days. Claimant's car broke down and she did not have daytime transportation. Claimant informed employer she could not work during the day. Employer continued to schedule claimant for daytime hours.

On March 7, 2020, claimant told a manager she was only available to work nights or weekends and not during the day. The manager told claimant they did not have hours available for her and they would call her when they needed her.

On March 24, 2020, claimant and her boyfriend talked to general manager, Kim, who told them that everyone's hours had been cut due to COVID, but that she was going to try to give everyone hours and rearrange the schedule. Claimant was not assigned to work any hours.

Claimant filed a claim for unemployment insurance benefits with an effective date of April 5, 2020. On April 10, 2020, employer protested on the basis that claimant voluntarily resigned from employment on March 7, 2020.

On May 1, 2020, a manager, Katelyn, called claimant and asked her to work. Claimant worked the next day, on May 2, 2020.

Claimant was not scheduled further hours.

On May 15, 2020, Iowa Workforce Development mailed claimant a notice for a fact finding interview on May 26, 2020. The notice stated that the employer alleged claimant voluntarily resigned.

On May 22, 2020, claimant had a telephone call with the new store manager, Enrique. Enrique told claimant that Katelyn told him that she resigned. Enrique offered claimant hours, but claimant resigned. Claimant told Enrique that she had another job, but she did not. Claimant did not ask if she could transfer to another store.

Claimant has not received any unemployment insurance benefits since separating from this employer on May 22, 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.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "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).

In this case, claimant resigned because of a miscommunication with employer regarding her employment status. Claimant felt like the store she worked at was too unorganized and did not want to work with a manager who lied about her. Rather than communicating with employer to straighten out the situation or request a transfer to another store, claimant resigned. Claimant did not establish a reasonable person in the same situation would have done the same thing, especially in the current job market.

Unemployment insurance benefits are denied after May 22, 2020. Therefore, claimant is also ineligible for Federal Pandemic Unemployment Compensation effective that date. See PL 116-136, Sec. 2104(b). Claimant was not overpaid benefits for any time period after May 22, 2020, as she has not filed for or received benefits after that date.

**DECISION:**

The May 27, 2020, (reference 02) 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.



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Christine A. Louis  
Administrative Law Judge  
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July 22, 2020  
Decision Dated and Mailed

cal/mh

*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>.