

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BROOKE L NELSON

Claimant

VALLEY VIEW VETERINARY CLINIC

Employer

APPEAL 20A-UI-07057-BH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20

Claimant: Appellant (1)

Iowa Code section 96.5(11) – Incarceration - Disqualified

STATEMENT OF THE CASE:

The claimant, Brooke L. Nelson, appealed the June 16, 2020 (reference 03) unemployment insurance decision that denied benefits based upon a finding Nelson voluntarily quit her job with Valley View Veterinary Clinic (Valley View) without good cause attributable to the employer. The agency properly notified the parties of the appeal and hearing.

The undersigned presided over a telephone hearing on August 3, 2020. Nelson participated personally and testified. Valley View participated through Barbara Lee, DVM, who testified.

ISSUES:

Was Nelson's separation from employment with Valley View a layoff, discharge for misconduct, or voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the undersigned finds the following facts.

Valley View hired Nelson on October 12, 2016. Nelson worked full time as a receptionist. On March 4, 2020, Valley View discharged Nelson because she was absent three times in a row without providing notice.

In late February, Nelson had health issues that required her to seek medical care and miss work. On February 26, 2020, Nelson worked a shift at Valley View. At around 3:00 or 4:00 a.m. on February 27, 2020, Nelson's son left a voicemail at Valley View stating his mom was sick and would not be at work that day.

While Nelson may very well have been ill enough to miss work on February 27, 2020, she could not have made it to work that day, regardless of her health, because she was in jail. The police had arrested her. Nelson was charged with operating a vehicle while intoxicated (OWI). Nelson was in jail from February 27, 2020, through March 3, 2020. Nelson did not give Valley View

notice that she would miss any scheduled shifts from February 28, 2020, through March 3, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the undersigned concludes Nelson is disqualified from benefits due to incarceration under the Iowa Employment Security Law, Iowa Code chapter 96.

Under Iowa Code section 96.5(11)(a), a claimant is disqualified from benefits if the claimant became separated from employment due to the claimant's incarceration in a jail, municipal holding facility, or correctional institution or facility, unless the agency finds all of the following:

- (1) The individual notified the employer that the individual would be absent from work due to the individual's incarceration prior to any such absence.
- (2) Criminal charges relating to the incarceration were not filed against the individual, all criminal charges against the individual relating to the incarceration were dismissed, or the individual was found not guilty of all criminal charges relating to the incarceration.
- (3) The individual reported back to the employer within two work days of the individual's release from incarceration and offered services.
- (4) The employer rejected the individual's offer of services.

Here, the evidence shows Nelson notified Valley View she would be absent from work prior to her absence on February 27, 2020, but for none of her absences due to incarceration that followed. Nelson is therefore disqualified from receiving benefits as a matter of law.

DECISION:

Regular Unemployment Insurance Benefits Under State Law

The June 16, 2020 (reference 03) unemployment insurance decision is affirmed. Nelson is disqualified from benefits because she failed to give Valley View advance notice of absences caused by her incarceration. Benefits are withheld until such time as Nelson has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Pandemic Unemployment Assistance (PUA) Under the Federal CARES Act

Even though Nelson is not eligible for regular unemployment insurance benefits under state law, she 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 in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if Nelson is eligible for such compensation for the week claimed.

This decision does not address whether Nelson is eligible for PUA. For a decision on such eligibility, Nelson must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.



Ben Humphrey
Administrative Law Judge

August 31, 2020
Decision Dated and Mailed

bh/sam

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. 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.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.**
- For more information about PUA, go to:

<https://www.iowaworkforcedevelopment.gov/pua-information>
- To apply for PUA, go to:

<https://www.iowaworkforcedevelopment.gov/pua-application>