

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHRISTINA MANNETTER
Claimant

APPEAL 21A-UI-24196-SN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAVERLY HEALTH CENTER
Employer

**OC: 09/26/21
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 19, 2021, (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on December 28, 2021. The claimant participated and testified. Employer participated through Director of Human Resources Angie Tye.

ISSUE:

Was the separation 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 administrative law judge finds:

The claimant was employed part-time as a nutrition services aid from March 6, 2017, until she was separated from employment on September 1, 2020, when she quit. The claimant's immediate supervisor was Nutrition Services Manager Kathy Bartels.

On September 1, 2020, the claimant tested positive for Covid19. An agent of the employer informed the employer of the claimant's positive diagnosis. The claimant was placed on a leave of absence with the expectation she could return after the quarantine period.

On September 10, 2020, the claimant was taken by helicopter to Iowa City because her oxygen had dropped to levels so low that she was in a coma.

On September 12, 2020, the claimant woke up from this first coma. The claimant remained in the hospital until September 22, 2020.

After being discharged from the hospital, the claimant's symptoms were too severe to return to work. The claimant's lungs have been damaged by Covid19 to such an extent that she is currently not able to walk without collapsing due to being out of breath.

On December 21, 2020, Ms. Bartels and Director of Human Resources Andie Tye informed the claimant that she was going to be separated from employment because she had exhausted all of her leave benefits.

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:

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 Code section 96.5(1)d 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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.¹⁶³ lack of transportation (Iowa Admin. Code r. 871-24.25(1))

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). A claimant is not disqualified for leaving employment if he or she (1) left employment by reason of illness, injury or pregnancy; (2) on the advice of a licensed and practicing physician; (3) and immediately notified the employer or the employer consented to the absence; (4) and when certified as recovered by a physician, the individual returned to the employer and offered services but the regular or comparable suitable

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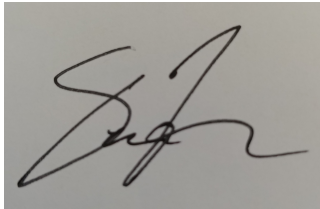
recovery without restriction. *Hedges v. Iowa Department of Job Service*, 368 N.W.2d 862 (Iowa App. 1985).

At the outset, the administrative law judge does want to note that he is sympathetic to the claimant's circumstances. He also wants to acknowledge that the claimant credibly testified she did not voluntarily quit. Sometimes the law does not neatly fall into intuitive formulations and this is one of those cases.

The claimant left work due to an injury under the advice of physician. The employer consented to leaving. The claimant has failed to provide the employer with certification that she has recovered. In addition the claimant has failed to offer services to the employer. The claimant has failed to meet the requirements of the statute and, therefore, is not eligible to receive unemployment insurance benefits. The claimant may requalify by returning to the employer with an unconditional release. The claimant could then receive benefits if regular work or comparable suitable work was not available. Benefits are denied.

DECISION:

The October 19, 2021, (reference 01) 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.



Sean M. Nelson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 725-9067

January 24, 2022
Decision Dated and Mailed

smn/kmj

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, but who are unemployed or continue to be 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>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

ATTENTION: On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.