

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JUDITH A WINKELMAN**  
Claimant

**KLEIN MANAGEMENT & RESEARCH INC**  
Employer

**APPEAL 20A-UI-10568-J1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

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

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

On August 31, 2020, the claimant filed an appeal from the August 25, 2020, (reference 01) unemployment insurance decision that denied benefits based on voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on October 15, 2020. Claimant participated. The employer, Klein Management & Research Inc. (KMR) participated through Brenda Klein, Owner and attorney James Heiliger.

**ISSUE:**

Did claimant voluntarily quit her employment with good cause attributable to the employer?

**Pandemic Unemployment Assistance (PUA) Under the Federal CARES Act**

Even though I find below claimant is not eligible for regular unemployment insurance benefits under state law, claimant 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 he or she is eligible for such compensation for the week claimed. This decision does not address when claimant is eligible for PUA. For a decision on such eligibility, claimant must apply for PUA, as noted in the instructions provided in the “Note to Claimant” at the end of this decision.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for KMR on April 20, 2015. Claimant last worked as a full-time lab tech. Claimant would work full-time during the busy period for KMR. Claimant worked full-time all year long from April 2015 through the summer of 2016. Claimant’s work was seasonal after that time. Claimant requested time off in February 2020 to go to vacation on March 9, 2020, which was granted by

KMR. Claimant's last day physically at work was March 5, 2020. Claimant went out of state for her vacation and her return was delayed due to Covid-19. Claimant returned to Iowa on March 23, 2020. Claimant spoke to a co-worker, Alex Corkins on her return and was told that since the colleges were closing that the employer should have sufficient interns to cover her position. Claimant assumed that she was not needed at work and did not call into work and speak to a supervisor.

Ms. Klein testified that after the claimant left for vacation they did not hear from claimant about her employment status until the employer received a notice of claim for unemployment insurance benefits on April 29, 2020. Up until the receipt of the notice of claim KMR assumed claimant was coming back to work. Ms. Klein testified that there was work available. Ms. Klein and claimant both testified that claimant worked full time or as many hours as she was available in March and April of each year.

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

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. The burden of proof rests with the employer to show that the claimant voluntarily left his/her employment. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992).

"Good cause attributable to the employer" does not require fault, negligence, wrongdoing or bad faith by the employer. *Dehmel v. Employment Appeal Bd.*, 433 N.W.2d 700, 702 (Iowa 1988)("[G]ood cause attributable to the employer can exist even though the employer is free from all negligence or wrongdoing in connection therewith"); *Shontz v. Iowa Employment Sec. Commission*, 248 N.W.2d 88, 91 (Iowa 1976)(benefits payable even though employer "free from fault"); *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787, 788 (Iowa 1956)("The good cause attributable to the employer need not be based upon a fault or wrong of such employer."). Good cause may be attributable to "the employment itself" rather than the employer personally and still satisfy the requirements of the Act. *Raffety*, 76 N.W.2d at 788 (Iowa 1956).

In this case claimant assumed that she was not needed at work and that her work was covered by the college interns. That was an incorrect assumption. Neither the claimant or the employer contacted each other about returning to work after claimant returned from vacation. I find that claimant's failure to contact her employer is a voluntary quit. By not returning after her vacation, during months when she would traditionally work, claimant showed a desire to terminate her employment.

### **DECISION:**

#### **Regular Unemployment Insurance Benefits Under State Law**

The August 25, 2020, (reference 01) unemployment insurance decision is affirmed. Benefits are withheld until such time as claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

**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 how to apply for PUA, go to:

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



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James F. Elliott  
Administrative Law Judge

October 29, 2020  
Decision Dated and Mailed

je/sam