

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

MEGAN R PETTENGILL
Claimant

APPEAL NO. 20R-UI-12288-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

KOALTY TIME INC
Employer

OC: 04/05/20
Claimant: Respondent (2)

Iowa Code § 96.4-3 – Able and Available
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Federal Law PL 116-136 Sec. 2104 – Eligibility for Federal Pandemic Unemployment Compensation
Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated July 23, 2020, reference 01, which held claimant able and available for work. After due notice, a hearing was scheduled for and held on December 3, 2020. Claimant participated personally. Employer participated by Tara Bogner. Claimant and employer both agreed to waive time and notice and address the issue of voluntary quit at this time.

ISSUES:

Whether claimant voluntarily quit with good cause attributable to employer?

Whether claimant is able and available for work?

Whether claimant has been overpaid state unemployment benefits?

Whether claimant is eligible to receive Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

The claimant worked for employer from June 2019 through March 22, 2020. On March 22, 2020 claimant asked for and received a leave of absence from employer as her two school-aged children had been released from school when it was shut down. One of claimant's children has asthma, and claimant was concerned with consequences should she transmit Covid to her child. Claimant did not produce a doctor's note in support of her request, but employer did not object to this leave request.

On July 30, 2020 employer requested that claimant return from her leave. Claimant declined this request and voluntarily quit her job. At the time of claimant's quit there was ongoing work available for her had she chosen to return. Claimant stated that she did not feel comfortable with other family members watching her children as they might also infect her children.

Claimant has received state unemployment benefits in this matter of \$3,536.00, and Pandemic extended unemployment compensation in the amount of \$1,548.00.

Claimant has received Federal Pandemic Unemployment Compensation benefits in this matter of \$10,800.00.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not eligible to receive unemployment benefits and has been overpaid state and federal benefits.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.23(10) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

Here claimant asked for and received a leave of absence from her job from March 20, 2020 through July 31, 2020. This means that claimant was ineligible to receive state unemployment benefits for that time period and also ineligible to receive the attached FPUC benefits.

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.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because she wished to stay home to protect her children from potentially catching the Covid. As claimant had voluntarily quit her job on July 31, 2020, she is ineligible to receive state benefits or FPUC benefits.

Iowa Code section 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.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Claimant has received state unemployment benefits in this matter of \$3,536.00. Additionally Claimant has received PEUC benefits of \$1,548.00. Said amounts are overpayments.

Claimant has received Federal Pandemic Unemployment Compensation benefits in this matter of \$10,800.00. Claimant is not eligible to receive this payment.

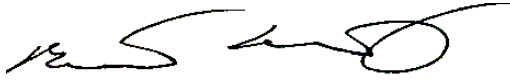
Note to Claimant: Even though claimant is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of 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.. **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>.

DECISION:

The July 23, 2020, reference 01, decision is reversed. Unemployment insurance benefits shall be withheld until 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.

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Claimant has received Federal Pandemic Unemployment Compensation benefits in this matter of \$10,800.00. Claimant is not eligible to receive this payment.



Blair A. Bennett
Administrative Law Judge

December 10, 2020
Decision Dated and Mailed

bab/scn