

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LAUREN TZAY

Claimant

APPEAL 20A-UI-03939-BH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEDGWICK CLAIMS MANAGEMENT SERVI

Employer

OC: 11/03/19

Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct

Iowa Code § 96.5(1) – Voluntary Quitting

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search

Iowa Code § 17A.12(3) – Default Decision

Iowa Admin. Code r. 871-26.14(7) – Dismissal of Appeal on Default

Public Law 116-136, Sec. 2104(b) – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Claimant filed an appeal from the May 7, 2020 (reference 04) unemployment insurance decision that found Claimant ineligible to receive unemployment insurance benefits because she quit her job with Sedgwick without good cause attributable to the employer. Notices of hearing were mailed to the parties' last known addresses of record for a telephone hearing scheduled for May 26, 2020, at 2:00 p.m. Claimant participated in the hearing. Sedgwick did not provide a telephone number and did not participate. Official notice was taken of the written appeal Claimant submitted to the agency.

ISSUE:

Whether the appeal should be dismissed based on the appellant's failure to appear and participate.

FINDINGS OF FACT:

Claimant has three children. One of them is special needs. She informed Sedgwick during the interview process that she needed flexibility at work because of her family. Sedgwick informed her that they were a flexible employer.

Claimant started working for Sedgwick on or about November 18, 2019. She was a full-time employee. Her job title was Disability Claims Representative 1. Her immediate supervisor was Christina Jennings. When Jennings was on maternity leave, Anna Ogden served as Claimant's supervisor.

Sedgwick had a probationary period of two months before an employee could use paid time off (PTO). An employee received 20 days of PTO after completing the employee's probationary period. Jennings told Claimant that when her Sedgwick account would show 20 days of PTO after completion of her probationary period.

Jennings did not communicate well with Claimant. When Claimant started employment with Sedgwick, she notified Jennings of three appointments she had scheduled before accepting the position. The first of which was in January of 2020. Jennings did not inform Claimant whether she was authorized to attend the appointments.

Claimant had a dentist appointment that she needed to leave work 30 minutes early in order to attend. She emailed and instant-messaged Jennings to see if she could have time off or work through her lunches. Jennings did not reply. Claimant left 30 minutes early and worked through subsequent lunches.

Claimant had a sick child on January 4, 5, and 11, 2020. Claimant notified Jennings that she needed to stay home to care for a sick child on each day. She received no reply.

On January 12, 2020, Jennings met with Claimant after she returned to work. Jennings told Claimant the three absences were unexcused. Claimant told her the employee handbook did not state that absences to care for sick children were unexcused. Jennings told her it was a common practice, which Claimant disputed because she had worked at multiple employers where absences to care for sick children were excused.

After the meeting, Claimant cancelled appointments because she did not want to get another unexcused absence. Ultimately, Claimant gave Jennings notice of her resignation in an email on January 22, 2020 because of Jennings's treatment of her. Jennings responded by asking Claimant to complete a template letter that only identified her last day of work. Claimant did so. Claimant's last day on the job wound up being January 31, 2020, despite her two weeks of notice, because Sedgwick hired an internal replacement for her.

After resigning at Sedgwick, Claimant became self-employed, running a daycare out of her home. Claimant watched multiple children. However, because of COVID-19, all of the children's parents pulled the children out of her daycare. Claimant has not filed a claim for federal Pandemic Unemployment Assistance (PUA) under the federal Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136.

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 §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 Admin. Code r. 871-24.25 provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

The facts here do not establish Claimant quit for good cause attributable to Sedgwick. She quit because Sedgwick counted her absences as unexcused and she disagreed with that. She also felt her supervisor was not a good communicator. Neither reason, nor the two combined, constitute good cause attributable to the employer under Iowa law.

DECISION:

The May 7, 2020 (reference 04) unemployment insurance decision finding Claimant ineligible for unemployment insurance benefits is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer.

Unemployment benefits under state law 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.

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. 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. Claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.



Ben Humphrey
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

May 28, 2020
Decision Dated and Mailed

bgh/scn

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>.