

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KEYLA A GILPIN
Claimant

APPEAL NO: 20A-UI-03422-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MOD CONVENIENCE STORE INC
Employer

OC: 03/22/20
Claimant: Appellant (1R)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 15, 2020, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on May 15, 2020. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing.

ISSUE:

The issue is whether the claimant voluntarily left her employment with 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 as a full-time cashier for Mod Convenience Store from August 8, 2019 to December 18, 2019. She voluntarily left her employment because she no longer had childcare for her grandson.

The claimant worked from 3:00 p.m. to 10:00 p.m. during the week and from 5:00 a.m. to noon on weekends. On December 18, 2019, the claimant received a call from her grandson's daycare provider at 6:00 p.m. stating the baby sitter did not pick the child up and they had been waiting more than one hour. They told the claimant they were going to call Department of Human Services (DHS) if she did not pick him up immediately. The claimant was working with Owner Harry Patel at the time she received the phone call from the daycare and told him she needed to leave because they were going to call DHS. Mr. Patel said, "So you don't work here anymore?" He helped her count her drawer and the claimant left. Mr. Patel did not tell the claimant her employment was terminated. The claimant did ask Mr. Patel if she could return after she picked up her grandson because she did not have anyone to watch him. She did not call Mr. Patel to ask if she still had a job because she did not have childcare so she could no longer work her job.

Despite being denied benefits at the initial fact-finding, the decision was made by Iowa Workforce Development to release funds of the claimants while their appeals were pending due

to the backlog in appeals caused by the recent COVID 19 outbreak. The claimant was one of the individuals whose funds were released pending appeal. The administrative record shows the claimant filed for and received a total of \$462.00 in unemployment insurance benefits for the two weeks ending April 11, 2020.

The claimant has received Federal Pandemic Unemployment Compensation in the amount of \$600.00 for the one week ending April 14, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

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.

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. 871 IAC 24.25. 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:

(17) The claimant left because of lack of child care.

In this case the claimant was effectively forced to resign her employment because she did not have childcare for her grandson. While that is a good personal reason for leaving, it is not considered a good cause reason *attributable to the employer*. (Emphasis added).

As the claimant has received benefits, pending a determination on her appeal, the next issue in this case is whether the claimant was overpaid unemployment insurance 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.

Since the decision disqualifying the claimant has been affirmed, the claimant was overpaid \$462.00 in unemployment insurance benefits.

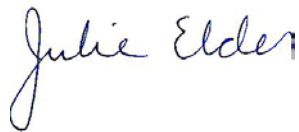
The issue of whether the claimant has been overpaid Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

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>.

DECISION:

The April 15, 2020, reference 01, 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. The claimant has received benefits but was not eligible for those benefits. Therefore, the claimant is overpaid benefits in the amount of \$462.00 for the two weeks ending April 11, 2020.

The issue of whether the claimant has been overpaid Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.



Julie Elder
Administrative Law Judge

May 20, 2020
Decision Dated and Mailed

je/scn