

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

FATIMA ZAHRA LAZAR
Claimant

HY-VEE INC
Employer

APPEAL 20A-UI-06606-BH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/03/20
Claimant: Appellant (1)

Iowa Code section 96.5(1) – Voluntary Quit
Iowa Administrative Code rule 871-24.25 – Voluntary Quit Without Good Cause Attributable to the Employer
Iowa Administrative Code rule 871-24.26 – Voluntary Quit With Good Cause Attributable to the Employer

STATEMENT OF THE CASE:

The claimant, Fatima Zahra Lazar (Fatima), appealed the June 17, 2020 (reference 01) unemployment insurance decision that denied benefits based upon a finding Fatima voluntarily quit her job with Hy-Vee, Inc. (Hy-Vee) without good cause attributable to the employer. The agency properly notified the parties of the appeal and hearing.

The undersigned presided over a telephone hearing on July 24, 2020, 2020. Fatima participated personally and testified. Nagat Lazar (Nagat) observed. Hy-Vee participated through Barbara Buss of Corporate Cost Control, Inc., who served as the employer representative for part of the hearing. Alek Anderson, who is an assistant store director at the Ankeny location where Fatima worked, testified and served as the employer representative after Buss left to participate in another hearing.

ISSUES:

Was Fatima's separation from employment with Hy-Vee 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 undersigned finds the following facts.

Hy-Vee hired Fatima on February 16, 2020. She worked part time in the deli. Fatima voluntarily left employment with Hy-Vee, effective March 22, 2020.

Fatima lived in Ankeny. Her family lives in Ottumwa. Fatima took an Uber to work at Hy-Vee during her tenure at the company.

When COVID-19 began spreading across the state, it became more difficult for Fatima to get an Uber for her commute to work. Things became complicated for Fatima because of COVID-19, so she decided to temporarily move from Ankeny to live with her family in Ottumwa during the pandemic. At the time of hearing Fatima was still living in Ottumwa while maintaining an apartment in Ankeny.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the undersigned concludes Fatima left employment with Hy-Vee without good cause attributable to the employer under the Iowa Employment Security Law, Iowa Code chapter 96.

Iowa Code section 96.5(1) disqualifies a claimant from benefits if the claimant quit her job without good cause attributable to the employer. The Iowa Supreme Court has held that good cause requires “real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith.” *Wiese v. Iowa Dep’t of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). Moreover, the court has advised that “common sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee’s quit in order to attribute the cause for the termination.” *Id.*

According to the Iowa Supreme Court, 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). Good cause may be attributable to “the employment itself” rather than the employer personally and still satisfy the requirements of the Act. *E.g. Raffety v. Iowa Employment Sec. Comm’n*, 76 N.W.2d 787, 788 (Iowa 1956). The test is an objective one:

A burden-shifting framework is used to evaluate quit cases. Because an employer may not know why a claimant quit, the claimant has the initial burden to produce evidence suggesting the claimant is not disqualified from benefits under Iowa Code section 96.5(1) a through j and section 96.10. If the claimant produces such evidence, the employer has the burden to prove the claimant is disqualified from benefits under section 96.5(1).

Iowa Administrative Code rule 24.25 creates a presumption a claimant quit without good cause attributable to the employer in certain circumstances. Under rules 871-24.25(2), it is presumed a claimant quit without good cause attributable to the employer if the claimant quit to move to another locality. The rule creates no exception if the move is temporary.

Here, the evidence establishes Fatima chose to move to Ottumwa to be with her family during the COVID-19 outbreak. She voluntarily left employment with Hy-Vee because she was moving. Under rule 871-24.25(2), she is disqualified from benefits because she did not leave employment with Hy-Vee for good cause attributable to the employer.

DECISION:

Regular Unemployment Insurance Benefits Under State Law

The June 17, 2020 (reference 01) unemployment insurance decision is affirmed. Fatima voluntarily left employment without good cause attributable to Hy-Vee. Benefits are withheld until such time as Fatima has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Pandemic Unemployment Assistance (PUA) Under the Federal CARES Act

Even though Fatima is not eligible for regular unemployment insurance benefits under state law, she 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 she is eligible for such compensation for the week claimed.

This decision does not address whether Fatima is eligible for PUA. For a decision on such eligibility, Fatima must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.



Ben Humphrey
Administrative Law Judge

July 31, 2020
Decision Dated and Mailed

bh/sam

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-information>