

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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APPEAL 21A-UI-19733-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

APPEAL RIGHTS:

This Decision Shall Become Final, unless within fifteen (15) days from the mailing date below the administrative law judge's signature on the last page of the decision, you or any interested party:

Appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
or
Fax (515)281-7191**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

The name, address and social security number of the claimant.

A reference to the decision from which the appeal is taken.
That an appeal from such decision is being made and such appeal is signed.

The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

ONLINE RESOURCES:

UI law and administrative rules: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-law-and-administrative-rules>

UI Benefits Handbook: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-benefits-handbook-guide-unemployment-insurance-benefits>

Handbook for Employers and forms: <https://www.iowaworkforcedevelopment.gov/employerforms>

Employer account access and information: <https://www.myiowaui.org/UITIPTaxWeb/>

National Career Readiness Certificate and Skilled Iowa Initiative: <http://skillediowa.org/>

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MEGAN D COLEHOUR
Claimant

JANELLE WILCOX
Employer

APPEAL 21A-UI-19733-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (1)

Iowa Code §96.5(2)a-Discharge/Misconduct
Iowa Code §96.5(1)- Voluntary Quit

STATEMENT OF THE CASE:

On September 22, 2021, the claimant/appellant filed an appeal from the September 22, 2021, (reference 04) unemployment insurance decision that disallowed benefits based on claimant voluntarily quitting for personal reasons. The parties were properly notified about the hearing. A telephone hearing was held on November 3, 2021. The hearing was held together with appeals 21A-UI-19736-CS-T; and 21A-UI-19739-CS-T, and combined into one record. Claimant was present at the hearing. Employer was present at the hearing and was represented by her husband and power-of-attorney Fred Wilcox. Jamie Jordan, Enrollment Specialist for Veridian Fiscal Solutions, was called as a witness on behalf of the employer. Administrative notice was taken of claimant's unemployment insurance benefits records.

ISSUE:

Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on October 4, 2019. Claimant last worked as a part-time care provider for employer Janelle Wilcox. Claimant was separated from employment on March 14, 2021, when she voluntarily quit her employment.

On February 14, 2021, claimant became ill with COVID. Claimant provided the employer with a doctor's note restricting her from working. Claimant's restriction expired on March 14, 2021 and claimant was set to return to work on March 15, 2021. On Sunday, March 14, 2021, claimant sent a text to the employer informing him that she was quitting due to her having COVID. Claimant also quit because she did not have childcare for her child. Claimant's resignation was immediately effective on March 14, 2021.

Claimant continued to have COVID symptoms until June 2021. Claimant has not returned to the employer and offered her services.

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 section 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 (17) and (35) provide:

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:

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

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (d) Fully recover so that the claimant could perform all of the duties of the job.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

The court in *Gilmore v. Empl. Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004) noted that:

"Insofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced

separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." *White v. Emp't Appeal Bd.*, 487 N.W.2d 342, 345 (Iowa 1992) (citing *Butts v. Iowa Dep't of Job Serv.*, 328 N.W.2d 515, 517 (Iowa 1983)).

An employee's failure to return to the employer and offer services upon recovery from an injury "statutorily constitutes a voluntary quit and disqualifies an individual from unemployment insurance benefits." *Brockway v. Emp't Appeal Bd.*, 469 N.W.2d 256 (Iowa Ct. App. 1991).

Claimant testified that she left employment due to her continuing COVID illness and because she had lack of childcare. Claimant testified that she was a COVID long hauler and continued having COVID until June 2021. Claimant has recovered and has not returned to the employer to offer her services. While claimant's leaving may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The September 22, 2021, (reference 04) unemployment insurance 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.



Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

December 1, 2021
Decision Dated and Mailed

cs/mh

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 but who were 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>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

ATTENTION: On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa is the week ending June 12, 2021. You may be eligible for benefits incurred prior to June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.