

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARLON B PAREDES

Claimant

APPEAL 20A-UI-03765-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ELVIS A VILLATORO INC

Employer

OC: 03/29/20

Claimant: Appellant (4)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

On May 5, 2020, Marlon Paredes (claimant/appellant) filed a timely appeal from the April 27, 2020 (reference 01) unemployment insurance decision that found him ineligible for benefits.

A telephone hearing was held on May 26, 2020. The parties were properly notified of the hearing. The claimant participated personally. Elvis A Villatoro Inc. (employer/respondent) did not register a number for the hearing and did not participate.

Claimant's Exhibits 1 and 2 were admitted. Official notice was taken of the administrative record.

ISSUE(S):

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 worked for employer full time as a driver. Claimant began employment in 2013 or 2014. The last day claimant worked on the job was March 26, 2020. Claimant's immediate supervisor was Elvis Villatoro.

Claimant went on a leave of absence beginning March 26, 2020 and ending May 26, 2020. Claimant went on the leave of absence due to the pandemic. He was concerned with how much contact he had with others as a driver for employer. His wife also became ill with COVID-like symptoms, necessitating claimant to care for her and to quarantine. See Exhibits 1, 2. Claimant spoke with Villatoro about the leave of absence and Villatoro agreed to it.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the April 27, 2020 (reference 01) unemployment insurance decision that found claimant ineligible for benefits is MODIFIED in favor of appellant. Claimant did

not voluntarily quit but went on a leave of absence. Claimant was therefore not able to and available for work effective March 26 and continuing until May 26, 2020. Claimant is ineligible for benefits during that time.

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.

Claimant was granted a leave of absence effective March 26 and continuing until May 26, 2020. He was not able to and available for work and thus not eligible for benefits during that time.

The administrative law judge notes that claimant is not eligible for regular unemployment benefits during the time in question, he may well be eligible for Pandemic Unemployment Assistance (PUA) benefits. There is more information below about PUA and how to apply for it.

DECISION:

The April 27, 2020 (reference 01) unemployment insurance decision that found claimant ineligible for benefits is MODIFIED in favor of appellant. Claimant did not voluntarily quit but instead went on a leave of absence. Claimant was therefore not able to and available for work effective March 26 and continuing until May 26, 2020. Claimant is ineligible for benefits during that time.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

May 29, 2020
Decision Dated and Mailed

abd/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 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>.