

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TAMMY NESBIT
Claimant

APPEAL 21A-UI-18720-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CROSSROADS INC
Employer

**OC: 04/18/21
Claimant: Respondent (2)**

Iowa Code § 96.5(1) – Voluntary Quitting of Work
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview
PL 116-136 Sec 2104 – Federal Pandemic Unemployment Compensation (FPUC)

STATEMENT OF THE CASE:

The employer/appellant filed an appeal from the August 10, 2021 (reference 03) unemployment insurance decision that allowed benefits to the claimant based upon a discharge from work. The parties were properly notified of the hearing. A telephone hearing was held on November 8, 2021. The claimant did not participate. The employer, Crossroads Inc., participated through witnesses Maria Geurink and Julie Hohenadel. Marlene Sartin represented the employer. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Has the claimant been overpaid any regular unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?
Can any charges to the employer's account be waived?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began her employment on June 28, 2019. She worked part-time as a resident support staff. August 10, 2020 was the last day she physically worked there on the job.

On or about August 19, 2020, claimant's daughter notified the employer that the claimant was in the hospital and that she would call the employer back the next day. The employer never heard back from the claimant or her daughter at any other point. There was continuing work available to the claimant if she would have returned to work.

Claimant's administrative records establish that she has not received unemployment insurance benefits since April 18, 2021 as her account was locked due to another issue. A fact-finding interview was scheduled for July 23, 2021; however, the employer only received notice of the interview on the day it was scheduled to occur and no representatives were available due to the

short notice period. The employer did provide written information that the claimant never returned to work for scheduled shifts in its statement of protest provided to Iowa Workforce Development.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code section 96.5(1)d 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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

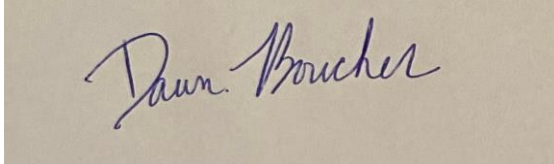
Claimant had an intention to quit and carried out that intention by never returning back to work. As such, claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable 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).

It appears that the claimant quit her position due to an illness but never returned to the employer to offer services. As such, the August 19, 2020 separation from employment is disqualifying and benefits are denied.

Because benefits are denied, the issues of overpayment and chargeability typically must be addressed; however, no benefits were paid to the claimant after the disqualifying separation from employment on August 19, 2020. As such, those issues are moot.

DECISION:

The August 10, 2021 (reference 03) unemployment insurance decision is reversed. Claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits funded by the State of Iowa are denied until the claimant has worked in and earned wages for insured work equal to ten times her weekly benefit amount after her August 19, 2020 separation date, and provided she is otherwise eligible.

A rectangular area containing a handwritten signature in blue ink that reads "Dawn Boucher".

Dawn Boucher
Administrative Law Judge

December 7, 2021
Decision Dated and Mailed

db/mh