

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**BAILEY K FITZGIBBON**  
Claimant

**IOWA CITY COFFEE COMPANY**  
Employer

**APPEAL 21A-UI-00627-CL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/15/20**  
**Claimant: Appellant (4)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

On November 29, 2020, the claimant filed an appeal from the November 16, 2020, (reference 02) unemployment insurance decision that denied benefits based on a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on February 9, 2021. Claimant participated. Employer participated through operations manager Brandon Reimers and owner Tara Cronbaugh. Claimant's Exhibit A was received.

**ISSUES:**

Did claimant voluntarily quit the employment with good cause attributable to employer?  
Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on August 19, 2018. Claimant last worked as a part-time barista. Claimant was laid off due to the pandemic on March 12, 2020.

Throughout her layoff, employer kept in contact regarding plans to recall employees.

On July 5, 2020, employer offered claimant hours at a location different from where she normally worked. Claimant informed employer she was out of town for personal reasons. Claimant asked if employer was planning on reopening the location where she normally worked that fall. Employer indicated it was, and that it was recalling employees to work at other locations sooner so they would be up and going when fall came. Employer notified claimant that it might have to recall her even if she was not in town, which could terminate her unemployment benefits. Employer stated, "Not planning on doing that but it is a possibility." Claimant then notified employer she would be back in town on July 13, 2020. Employer replied, "Perfect."

Employer did not contact claimant again until August 14, 2020, when it asked if she planned returning to work that fall. On August 15, 2020, claimant let employer know she had made other arrangements.

**REASONING AND CONCLUSIONS OF LAW:**

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 this case, claimant resigned rather than return to work on August 15, 2020. Claimant is disqualified from receiving unemployment insurance benefits after August 15, 2020.

The next issue is whether claimant is able to and available for work and therefore eligible for benefits effective July 5, 2020.

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 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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".

In this case, claimant is not eligible for benefits during the one week ending July 11, 2020, as she was out of town for personal reasons and was not able to and available for work. After July 11, 2020, employer did not ask or schedule claimant to work, even though it knew she was in town effective July 13, 2020.

**DECISION:**

The November 16, 2020, (reference 02) unemployment insurance decision is modified in favor of claimant. Claimant resigned effective August 15, 2020. Claimant voluntarily left the 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. Claimant was able to and available for work and is allowed benefits up until August 15, 2020, with the exception of the one week ending July 11, 2020, during which benefits are denied.



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

February 22, 2021  
Decision Dated and Mailed

cal/kmj