

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KOREEN KING
Claimant

PROFESSIONAL HOME AMES INC
Employer

APPEAL NO. 20A-UI-08765-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (4/R)

Iowa Code Section 96.5(1)(a) – Voluntary Quit to Accept Other Employment

STATEMENT OF THE CASE:

Koreen King filed a timely appeal from the July 21, 2020, reference 01, decision that disqualified her for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that Ms. King voluntarily quit on March 13, 2020 without good cause attributable to the employer. After due notice was issued, a hearing was held on September 8, 2020. Ms. King participated. Daniel Pixley, Office Manager, represented the employer. Exhibit A was received into evidence. The administrative law judge took official notice of the three documents the employer submitted as part of the fact-finding interview process. The administrative law judge took official notice of these additional Agency administrative records: KCCO, DBRO, KPYX and WAGE-A.

ISSUES:

Whether the claimant's voluntary quit was for good cause attributable to the employer.
Whether the claimant voluntarily quit for the sole purpose of accepting other, better employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Koreen King was employed by Professional Home Ames, Inc. as a part-time residential cleaner during two distinct periods. According to Iowa Workforce Development records, the earlier employment ended during the second quarter of 2019. Ms. King began the most recent employment on December 17, 2019 and last performed work for the employer on March 11, 2020. Ms. King's wage was \$12.70 per hour. Ms. King generally worked for the employer 15 to 20 hours per week. She would start her work day at 8:30 a.m. on Monday through Friday and would be done sometime between 11:30 a.m. and 1:00 p.m. Daniel Pixley, Office Manager, was Ms. King's supervisor.

On March 5, 2020, Ms. King accepted other employment with Jimmy's BBQ. Ms. King was to start the employment on March 13, 2020. The new employment would pay an hourly wage of \$4.25 plus tips. Ms. King accepted the new employment with the understanding that she would receive 25 to 30 hours per week.

On March 6, 2020, Ms. King notified Mr. Pixley verbally and through a Change in Work Status Request/Voluntary Resignation form that she would be leaving her employment at Professional Home Ames effective March 13, 2020. Ms. King did not mention the new employment at the time she submitted her resignation, but instead said she was leaving because she had too much going on in her life. Ms. King subsequently referred to the new employment during her last week with Professional Home Ames, Inc. That employer continued to have work available for Ms. King at the time Ms. King separated from the employment.

After Ms. King submitted her resignation on March 6, 2020, she suffered an injury to her middle finger on her left hand when a razor fell on her hand while she was cleaning a customer's home. The injury required stitches. The doctor released Ms. King to return to work with a restriction against getting her left hand wet. The employer assigned Ms. King to clean with another employee. Ms. King experienced pain in her finger after a cleaning assignment and returned to the doctor with a concern that her finger might be infected. The finger was not infected. Ms. King performed additional cleaning for the employer through March 11, 2020. The customer whose home Ms. King was assigned to clean on March 12 cancelled. The employer elected to call Ms. King's employment done at that point, rather than have her return for one more day of work on March 13, 2020.

Ms. King began her new employment at Jimmy's BBQ on March 13, 2020, shortly before the COVID-19 pandemic impacted restaurant dine-in service. Ms. King subsequently established a claim for unemployment insurance benefits that was effective March 29, 2020.

REASONING AND CONCLUSIONS OF LAW:

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See Iowa Administrative Code rule 871-24.25.

Iowa Code section 96.5(1)(a) 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:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The evidence in the record establishes a March 13, 2020 voluntary quit that was without good cause attributable to Professional Home Ames, Inc. and that the sole purpose of the quit was to accept other employment. Just one day after Ms. King accepted an offer of employment with Jimmy's BBQ with a start date of March 13 2020, she notified Professional Home Ames that she

would be leaving effective March 13, 2020. The fact that the employer moved up the separation date by one day to March 12, 2020 is inconsequential for purposes of determining Ms. King's eligibility for unemployment insurance benefits or the employer's liability for benefits. The fact that Ms. King was less than forthright with the employer regarding the basis for her quit at the time she notified the employer of impending quit is inconsequential for purposes of determining Ms. King's eligibility for unemployment insurance benefits or the employer's liability for benefits. The quit to accept other employment does not disqualify Ms. King for unemployment insurance benefits. Ms. King is eligible for benefits, provided she meets all other eligibility requirements. Because the quit was without good cause attributable to the employer, the employer's account will not be charged for benefits that are based on wages earned from this most recent employment. Instead, the wage credits for this most recent employment during the period of December 17, 2019 through March 13, 2020 will be assessed to the unemployment compensation fund.

DECISION:

The July 21, 2020, reference 01, decision is modified in favor of the claimant/appellant as follows. The claimant voluntarily quit the employment effective March 13, 2020 without good cause attributable to the employer and for the sole purpose of accepting other employment. The claimant is eligible for benefits, provided she meets all other eligibility requirements. The employer's account will not be charged for benefits that are based on wages earned from this most recent employment. Instead, the wage credits for this most recent employment during the period of December 17, 2019 through March 13, 2020 will be assessed to the unemployment compensation fund.

This matter is remanded to the Benefits Bureau for determination of whether the claimant has been able to work, available for work, partially unemployed and/or temporarily unemployed since she established her claim. Attention should be given to ascertaining the claimant's actual wages in light of what appears to be underreported wages.



James E. Timberland
Administrative Law Judge

September 10, 2020
Decision Dated and Mailed

jet/sam