

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

IMAN JUENGER
Claimant

MCLAND INC
Employer

**APPEAL 20A-UI-09326-HP-T
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/15/20
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

Claimant Iman Juenger filed an appeal from a July 27, 2020 (reference 02) unemployment insurance decision that denied benefits for voluntarily quitting his employment with McLand Inc. ("McLand") on March 7, 2020. The parties were properly notified of the hearing. A telephone hearing was held on September 18, 2020. Juenger appeared and testified. Jim Landau and Dorian Larson appeared and testified on behalf of McLand. Exhibits 1 through 4 were admitted into the record. I took administrative notice of the claimant's unemployment insurance benefits records maintained by Iowa Workforce Development.

ISSUE:

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

FINDINGS OF FACT:

On October 19, 2019, Juenger commenced part-time employment with McLand as a server. Juenger typically worked two days a week while he was attending college. He did not typically work during the weekend. Larson was his immediate supervisor. Landau is the owner and manager. Landau owns and operates two restaurants, Montage where Juenger worked, and the Brown Bottle in Cedar Falls.

Larson testified Juenger put in a two-week notice on March 1, 2020 to her verbally, in-person. Larson testified Juenger told her he was moving to Cedar Rapids to be closer to his girlfriend and to help out his family. Larson and Landau accepted Juenger's resignation. Larson and Landau testified Juenger did not rescind his resignation before he resigned.

Juenger was scheduled to work the week of March 5, 2020. He requested the week off to go out of town with a friend, which Larson approved. The following week he was scheduled to work on March 10, 2020 and March 12, 2020. He was on-call March 11, 2020. McLand posted servers could take off March 10, 2020 and March 12, 2020, if they wanted. Landau testified Juenger was the first person who responded and said he wanted to be off. Juenger did not return to the restaurant.

Juenger testified the restaurant closed due to Covid-19 and he was subject to layoff. Larson and Landau denied Juenger was subject to layoff and reported continuing work was available to Juenger. Juenger testified the restaurant Facebook website said it was closing down and he saw it in the news. Landau testified the restaurant continued to operate and serve carry out and servers were still employed throughout March 2020.

Juenger denied that he put in a two-week notice in early March. He admitted he had discussed leaving, but testified Landau and Larson were lying during the hearing.

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: . . . If the individual has left work voluntarily without good cause attributable to the individual’s employer, if so found by the department.” The Iowa Supreme Court has held a “voluntary quit” means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer.” *Wills v. Emp’t Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989). A voluntary quit requires “an intention to terminate the employment relationship accompanied by an overt act carrying out the intent.” *Peck v. Emp’t Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). “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).

871 Iowa Administrative Code 24.25(2) and (37) 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 following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

24.25(2) The claimant moved to a different locality.

24.25(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation.

During the hearing I assessed the credibility of the witnesses by considering whether their testimony was reasonable and consistent with other evidence I believe, whether they had made inconsistent statements, their “appearance, conduct, memory and knowledge of the facts,” and their interest in the case. *State v. Frake*, 450 N.W.2d 817, 819 (Iowa 1990). Juenger has an interest in receiving unemployment benefits and has an interest in the outcome of this case. Larson works for the business and Landau operates the business. They also have an interest in this case. I do not find Juenger’s testimony reasonable and consistent with the other evidence I believe. I find the testimony of Larson and Landau reasonable and consistent with the other evidence I believe. Juenger was evasive during the hearing and he would not answer questions directly. He also testified the Facebook group page for the restaurant and the media reported the restaurant was closing on March 17, 2020. Larson and Landau testified the restaurant did not close on March 17, 2020, and continuing work was available to servers. I believe Juenger told Larson he was resigning because he wanted to move to Cedar Rapids to be closer to his

girlfriend and to help his family. Juenger did not rescind his resignation and he left voluntarily on his own. Benefits are denied.

DECISION:

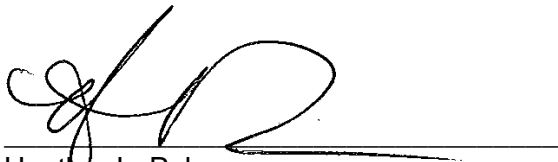
Regular Unemployment Insurance Benefits Under State Law

The July 27, 2020 (reference 02) unemployment insurance decision denying unemployment insurance benefits is affirmed. Claimant voluntarily quit the claimant's employment with the employer on March 14, 2020. Unemployment insurance benefits are denied until the claimant has worked in and earned wages for insured work equal to ten times the claimant's weekly benefit amount after the claimant's separation date, and provided the claimant is otherwise eligible.

Pandemic Unemployment Assistance ("PUA") Under the Federal CARES Act

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, the claimant may be eligible for federally funded unemployment insurance benefits under the CARES Act. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance ("PUA") that may provide up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive an additional \$600 weekly benefit amount under the Federal Pandemic Unemployment Compensation ("FPUC") program if the individual is eligible for PUA benefits for the week claimed. The FPUC additional \$600 payment per week ends as of July 25th in Iowa. This means the \$600 weekly additional benefit will stop and at this time, no extension or change to the program has been made by Congress at this time. This does mean that you will see a corresponding decrease in your weekly benefit amount. The FPUC payments are not a state benefit and Iowa is unable to make any changes to the availability of this benefit. If a change takes place to this benefit in the future, IWD will share on the IWD website and social media. This decision does not address whether the claimant is eligible for PUA. If the claimant wishes to receive PUA benefits, the claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below:

Note to Claimant: If this decision determines you are not eligible for regular unemployment insurance benefits and 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>.** This decision denies benefits. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.



Heather L. Palmer
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September 22, 2020
Decision Dated and Mailed

hlp/scn