

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JULIE TROENDLE

Claimant

MIDWEST AESTHETICS INC

Employer

APPEAL NO. 20A-UI-11039-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/22/20

Claimant: Appellant (1R)

Iowa Code Section 96.5(1) – Voluntary Quit
Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

Julie Troendle filed a timely appeal from the August 31, 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. Troendle voluntarily quit on March 15, 2020 for personal reasons and without good cause attributable to the employer. After due notice was issued, a hearing was held on October 28, 2020. Ms. Troendle participated. The employer did not provide a telephone number for the hearing and did not participate. The hearing in this matter was consolidated with the hearing in Appeal Number 20A-DUA-00517-JTT. Exhibits A through K were received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KPYX and WAGE-A. The administrative law judge also took official notice of the claimant's application for PUA, the decision denying PUA, and the deputy's notes regarding the basis for the denial of PUA.

ISSUES:

Whether the claimant voluntarily quit without good cause attributable to the employer.
Whether the claimant has been able to work and available for work during the period of March 22, 2020 through September 19, 2020.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Julie Troendle began her employment with Midwest Aesthetics, Inc. in July 2019 and last performed work for the employer on March 13, 2020. The employer is a dental laboratory. Ms. Troendle worked as a milling technician.

At the time Ms. Troendle applied for the employment, she was seeking part-time employment with the hours of employment that offered work hours that coincided with the hours her children were in school. Ms. Troendle's children attended elementary school in Cedar Rapids. Ms. Troendle told the employer that she would be willing to work full-time if the employer was willing to pay her more than the \$13.00 wage the employer offered for the part-time employment. Ms. Troendle initially worked 20 hours per week, with her work hours occurring

during her children's school hours. Throughout the employment, Ms. Troendle worked in the lab's milling room. Ms. Troendle told the employer that she was open to learning new skills. During the first few months of the employment, Ms. Troendle's work hours increased to 25 hours per week. Ms. Troendle was initially one of three milling technicians assigned to the milling room. After Ms. Troendle completed her initial training, the coworker who trained her indicated that Ms. Troendle would now need to assume the trainer duties Ms. Troendle was thereafter one of two milling technicians assigned to the milling room.

For the first several months of the employment, the employer afforded Ms. Troendle an hour for lunch break. The employment offered Ms. Troendle access to a gym facility as an employment benefit. Ms. Troendle got into the habit of taking an hour for lunch and working out at the gym during that time. This largely came to an end in January 2020, when Ms. Troendle's work hours temporarily increased to full-time with overtime hours required.

In January 2020, the second milling technician moved to a different department in preparation for covering another employee's work duties when that other employee went on a six-week maternity leave. During January and February 2020, Ms. Troendle was the only milling technician working in the milling room. As of mid-January, Ms. Troendle found herself working 50 hours per week. Ms. Troendle received over time pay for the hours that exceeded 40 per week. Ms. Troendle would start her workday at 9:00 a.m., after her children went to school. On Monday through Thursday, Ms. Troendle would leave the workplace at 3:00 p.m. to collect her children from school. Ms. Troendle would return to the workplace at 4:30 p.m. with her children in tow. Ms. Troendle would try to leave by 7:00 p.m., but often ended up working until 9:00 p.m. Ms. Troendle would also work on weekends and would bring her children along to the workplace.

Ms. Troendle started to advocate for return to her previous part-time work schedule as soon as her work hours began to substantially increase in mid-January. The overtime work came to an end in February, at which time Ms. Troendle's work hours then reduced to 30-35 hours per week. Ms. Troendle thereafter started her work day at 9:00 a.m. and ended her work day at 3:00 p.m. In connection with the reduction in work hours, Ms. Troendle's supervisor, Shane Williams, told Ms. Troendle that she was expected to complete the same amount of work she had been performing before the reduction in work hours, even if that meant forgoing breaks. Ms. Troendle's breaks were thereafter limited to short breaks she was able to take in the milling room while keeping an eye on milling operations. Ms. Troendle asked the employer for additional help in the milling room, but none was provided. The employer was short-staffed, due to one employee being off work for maternity leave.

On March 15, 2020, Ms. Troendle gave the employer a two-week notice that she was leaving employment. In other words, her last day would be Friday, March 27, 2020. Prior to leaving the employment, Ms. Troendle met with the employer on multiple occasions during which she stated that things needed to change or she would have to find other employment. The main concern at that point was the amount of work in the milling room, the lack of assistance in performing that work, and elimination of breaks. However, Ms. Troendle had recently observed that the level of business had declined. Ms. Troendle's children were scheduled to be out of school for school break during the week of March 15-21, 2020. Ms. Troendle and the employer had an understanding that Ms. Troendle would not be at work during that week. In other words, there would be one more week of work to perform during the work week of March 23-27, 2020.

Ms. Troendle's progressive increase in duties and work hours were accompanied by an increase in her hourly wage. At the beginning of February 2020, the employer increased Ms. Troendle's hourly wage to \$16.00. However, the employer had told Ms. Troendle that the

employer would be increasing her wage to \$17.00 per hour. Ms. Troendle noted on her paystub for February 21, 2020 that the hourly wage was stated is \$16.00 per hour instead of \$17.00 per hour. The employer agreed to fix the pay issue before the next payday and wrote the claimant a separate check for the difference in pay. The \$17.00 per hour pay issue was not fully resolved during the latter half of March 2020.

Ms. Troendle did not return to work during the week of March 23-27, 2020 to work the final week of her notice period.

The employer continued to have work available for Ms. Troendle and attempted to continue a discussion with Ms. Troendle about returning to the employment. However, Ms. Troendle was not in a position to return to that employment or to accept any other employment due to the Cedar Rapids Community School District shutting down schools during spring break, pursuant to the Governor's directive, to slow community spread of COVID-19. Prior to the school closure, Ms. Troendle's mother had provided care for Ms. Troendle's children as needed while Ms. Troendle was at work. Ms. Troendle's children's school remained closed through the end of the June 1, 2020 scheduled end of the school year. During that time, Ms. Troendle supervised her children as they participated in virtual learning activities and worked on homework packets. Ms. Troendle remained unavailable for work until September 21, 2020, when her children returned to school in connection with a late start to the academic year. During the two-week period of September 6, 2020 to September 19, 2020, Ms. Troendle was also preoccupied with addressing damage caused by the August 10, 2020 derecho. Following the week that ended September 19, 2020, Ms. Troendle discontinued her claim for unemployment insurance benefits.

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 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 871 IAC 24.25.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See Iowa Admin. Code r. 871-24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d (Iowa 2005).

The evidence in the record established a voluntary quit without good cause attributable to the employer. The weight of the evidence indicates that there were substantial, but temporary

changes in the conditions of the employment brought on by the coworker's maternity leave, Ms. Troendle's progressive mastery of tasks, and other factors. Some of these changes were positive and some were perceived as negative. The positive changes included the increased wage associated with the increased work hours and increased responsibilities. To a significant extent, this was a natural progression of the employment. On the negative side, Ms. Troendle ended up working more hours than she wanted and ended up with limited or no breaks after the work hours returned to part-time. Given Ms. Troendle's ultimate 9:00 a.m. to 3:00 p.m. work schedule, a reasonable person would not expect much in terms of breaks. The changes Ms. Troendle perceived as negative were resolved or progressing toward resolution at the time she provided her quit notice. The hours had reduced, pursuant to Ms. Troendle's request. The wages had increased. The workload appeared to be on the decline. The evidence fails to establish intolerable or detrimental working conditions that would have prompted a reasonable person to leave the employment. The evidence establishes a voluntary quit without good cause attributable to the employer due to dissatisfaction with the conditions of the employment. Ms. Troendle moved up the effective date of her quit to March 23, 2020, based on need to stay home with her children in connection with the school closure. Based on the voluntary quit without good cause attributable to the employer, Ms. Troendle is disqualified for state unemployment insurance benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. Ms. Troendle is required to meet all other eligibility requirements. The employer's account will not be charged.

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. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of

services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(8) as follows:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(8) Where availability for work is unduly limited because of not having made adequate arrangements for child care.

The evidence in the record establishes that Ms. Troendle did not meet the work availability requirement during the period of March 22, 2020 through September 19, 2020, due to her need to stay home to stay home to supervise and care for her children during the school shutdown period and her election to remain off work over the summer break despite having childcare assistance available through her mother. Based on the availability issue, Ms. Troendle would not be eligible for state benefits for the period of March 22, 2020 through September 19, 2020.

DECISION:

The August 31, 2020, reference 01, decision is affirmed. The claimant voluntarily quit without good cause attributable to the employer. The effective date of the quit was March 23, 2020. The claimant is disqualified for state benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged. The claimant was not available for work within the meaning of the law during the period of March 22, 2020 through September 19, 2020 and is not eligible for state benefits for that period.

This matter is remanded for entry of overpayment decisions regarding the regular state benefits the claimant received for the period of March 22, 2020 through June 20, 2020 and for the Pandemic Emergency Unemployment Compensation (PEUC) benefits the claimant received for the period of June 21, 2020 through August 22, 2020. The remand should also include consideration of whether the claimant was overpaid Federal Pandemic Unemployment Compensation (FPUC) for the period of March 29, 2020 through July 25, 2020 and Lost Wages Assistance (LWA) for the period of July 26, 2020 through and August 22. The FPUC and LWA overpayment determination should factor the decision entered in Appeal Number 20A-UI-00517-JTT regarding Pandemic Unemployment Assistance (PUA) benefits.



James E. Timberland
Administrative Law Judge

December 21, 2020
Decision Dated and Mailed

jet/mh

NOTE TO CLAIMANT:

This decision determines you are not eligible for regular unemployment insurance benefits under state law. 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.

If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you may be required to repay the benefits you have received.**