

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CODY M BUBLITZ
Claimant

FAMILY GUYS FREIGHT LLC
Employer

APPEAL 21A-UI-19770-JC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/29/20
Claimant: Respondent (2)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)

STATEMENT OF THE CASE:

The employer/appellant, Family Guys Freight LLC., filed an appeal from the September 2, 2021 (reference 03) Iowa Workforce Development (“IWD”) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on October 28, 2021. The claimant, Cody M. Bublitz, participated. The employer participated through Russell Johnson.

The administrative law judge took official notice of the administrative records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Was the claimant discharged for disqualifying job-related misconduct?
Did claimant voluntarily quit the employment with good cause attributable to employer?
Has the claimant been overpaid any 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?
Is the claimant eligible for Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a mechanic and was separated from employment on July 2, 2021. The evidence is disputed as to whether claimant quit or was discharged.

Claimant last performed work on June 19, 2021. Claimant and employer had a disagreement about how long it should take to clean out a trailer. Employer asked claimant, “do you want to be done” and claimant responded “maybe.” Employer stated, “there is no maybe.” Employer

stated it told claimant to “get out of here and come back when you are ready to work.” Claimant interpreted employer’s comment to “get out of here” to mean employer had initiated separation and did not return to work. Claimant got on his bike, left and separation ensued. Employer denied discharging claimant.

The administrative record reflects that claimant has not received unemployment benefits since his separation date. The administrative record also establishes that the employer did participate in the fact-finding interview or make a witness with direct knowledge available for rebuttal. Employer participated in a cold call conducted by an IWD deputy.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit the employment without good cause attributable to the employer.

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. They remain disqualified until such time as they requalify for benefits by working and earning insured wages ten times their weekly benefit amount. *Id.*

A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp’t Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp’t Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). In this case, on June 19, 2021, the claimant was asked if he wanted to remain employed. He said “maybe”. When the employer informed claimant he could not waffle on his response, claimant responded by getting on his bike, leaving and not attempting to return to work. Employer did not determine separation occurred for days later after giving claimant an opportunity to cool down or return to work when ready.

Employer stated claimant should come back when ready to work. This is indicative that employer did not intend to fire claimant. Where an individual mistakenly believes that he is discharged and discontinues coming to work (but was never told he was discharged), the separation is a voluntary quit without good cause attributable to the employer. *LaGrange v. Iowa Dep’t of Job Serv.*, (No. 4-209/83-1081, Iowa Ct. App. filed June 26, 1984).

Based on the evidence presented, the administrative law judge concludes the claimant was not discharged, but voluntarily quit the employment without good cause attributable to the employer. Benefits are denied.

Because the claimant’s separation was disqualifying, benefits were originally allowed. However, he did not receive any benefits and therefore there is no overpayment in accordance with Iowa Code § 96.3(7). The administrative law judge further concludes the employer did satisfactorily participate in the fact-finding interview pursuant to Iowa Code § 96.3(7), Iowa Admin. Code r. 871-24.10.

DECISION:

The September 2, 2021 (reference 03) initial decision is reversed. The claimant voluntarily quit the employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.



Jennifer L. Beckman
Administrative Law Judge
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December 29, 2021
Decision Dated and Mailed

jlb/mh

NOTE TO CLAIMANT: This decision determines you are not eligible for regular unemployment insurance benefits. 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.

ATTENTION: On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.

You may find information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>

Iowa Finance Authority also has additional resources at <https://www.iowafinance.com/about/covid-19-ifa-recovery-assistance/>