

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**ANDREW T MUSTARD**  
Claimant

**RANDALL A KAUNE JR**  
Employer

**APPEAL NO. 21A-UI-11641-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/19/20**  
**Claimant: Respondent (4)**

Iowa Code § 96.5-1 – Voluntary Quit  
Iowa Code § 96.3-7 – Recovery of Overpayment of Benefits  
Federal Law PL 116-136 Sec. 2104 – Eligibility for Federal Pandemic Unemployment Compensation  
871 IA Admin. Code 24(10) – Employer Participation in Fact Finding

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated April 22, 2021, reference 05, which held claimant eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on July 16, 2021. Employer participated by Randall Kaune Jr. Claimant failed to respond to the hearing notice and did not participate.

**ISSUES:**

Whether claimant voluntarily quit with good cause attributable to employer?

Whether claimant was overpaid benefits?

If claimant was overpaid benefits, should claimant repay benefits or should employer be charged due to employer's participation or lack thereof in fact finding?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on February 13, 2020. Claimant voluntarily quit when he no longer accepted work opportunities from employer as he was concentrating on his other employment.

Claimant worked for employer and for O'Reilly Auto Parts. During the winter claimant was to do snow removal for employer. Claimant worked a number of days for employer before he started declining work. Claimant was working another full time job at O'Reilly's. Claimant chose to decline full time work with employer in the spring as he was going to continue with his other employment.

Claimant has received state unemployment benefits in the amount of \$169.00.

Claimant has received Federal Pandemic Unemployment Compensation benefits in the amount of \$600.00.

Employer did not substantially participate in fact finding in this matter by not answering a 4 day letter after the fact finder shows no information gained through any phone call to employer.

### **REASONING AND CONCLUSIONS OF LAW:**

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.

Iowa Admin. Code r. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause when claimant quit for the sole purpose of taking other employment. Employer's account shall not be charged for benefits received by claimant.

The overpayment issue was addressed. Claimant is eligible to receive unemployment benefits per the separation between the parties in this matter. There is no overpayment of benefits.

The issue of employer participation is moot as employer's account will not be charged.

**DECISION:**

The decision of the representative dated April 22, 2021, reference 05, is modified in favor of the employer. Claimant is still eligible to receive benefits, provided claimant meets all other eligibility requirements. Employer's account will not be charged for benefits received by claimant.



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Blair A. Bennett  
Administrative Law Judge

July 26, 2021  
Decision Dated and Mailed

bab/lj