

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AUSTIN J TRAUSCH
Claimant

ROC TAPROOM INC
Employer

APPEAL 21A-UI-07622-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/19/20
Claimant: Respondent (2)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer Participation in Fact-Finding Interview
PL 116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

ROC Taproom Inc, the employer/appellant, filed an appeal from the March 12, 2021, (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified of the hearing. A telephone hearing was held on May 25, 2021. The employer participated through Juliet Diaz, human resources manager. Mr. Trausch did not register for the hearing and did not participate. Official notice was taken of the administrative record.

ISSUE:

Was Mr. Trausch discharged for disqualifying job-related misconduct or did he voluntarily quit without good cause attributable to the employer?
Was Mr. Trausch overpaid benefits?
If so, should she repay the benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Trausch began working for the employer on June 10, 2020. He worked as a part-time server.

Mr. Trausch was scheduled to work every day from October 12, 2020 through October 18, 2020. On October 15, a customer complained about Mr. Trausch. On October 16, several customers complained about Mr. Trausch. Mr. Trausch walked off the job in the middle of his shift. Mr. Trausch did not attend work on October 17 or October 18. Mr. Trausch has not ever returned to work.

Mr. Trausch received \$0.00 in REGULAR unemployment insurance (UI) benefits and \$0.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits since his employment ended with this employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Mr. Trausch was not discharged from employment, he quit and his separation from the employment was without good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits:

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.

Iowa Admin. Code r. 871-24.25(4) provides:

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 employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "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). 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, it is undisputed that Mr. Trausch walked off the job on October 16 and he did not attend work or call-in to work October 17, 18 or thereafter. Mr. Trausch voluntarily quit without good cause attributable to the employer. Therefore, benefits are denied.

Since Mr. Trausch has been paid \$0.00 in REGULAR unemployment insurance (UI) benefits and \$0.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits since his employment ended with this employer, the issues of overpayment and repayment are moot.

Even though Mr. Trausch is not eligible for regular unemployment insurance benefits under state law, he may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive up to the \$600 weekly benefit

amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed.

DECISION:

The March 12, 2021, (reference 01) unemployment insurance decision is reversed. Mr. Trausch voluntarily left his 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.



Daniel Zeno
Administrative Law Judge
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Iowa Workforce Development
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Des Moines, Iowa 50319-0209
Fax 515-478-3528

June 7, 2021
Decision Dated and Mailed

dz/kmj

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 you were or you are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA) benefits. **You must apply for PUA benefits to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>.
- Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs, including the PUA program, effective June 12, 2021. **However, you can still apply for PUA benefits at the link above.**