

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

DANIEL J YOUNG
Claimant

APPEAL NO: 15A-UI-04929-LDT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALLSTEEL INC
Employer

OC: 04/05/15

Claimant: Respondent (2/R)

Section 96.5-1 – Voluntary Leaving
Section 96.3-7 – Recovery of Overpayment of Benefits
871 IAC 24.10 – Employer Participation

STATEMENT OF THE CASE:

AllSteel, Inc. (employer) appealed a representative's April 16, 2015 decision (reference 01) that concluded Daniel J. Young (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 3, 2015. A review of the Appeals Bureau's conference call system indicates that the claimant failed to respond to the hearing notice and provide a telephone number at which he could be reached for the hearing and did not participate in the hearing. Marlene Sartin, Employer's Edge representative, appeared on the employer's behalf and presented testimony from one witness, Cassie Barber. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant voluntarily quit for a good cause attributable to the employer? Was the claimant overpaid unemployment insurance benefits, and if so, is that overpayment subject to recovery based upon whether the employer participated in the fact-finding interview?

OUTCOME:

Reversed. Benefits denied. Remand on overpayment and participation issues.

FINDINGS OF FACT:

The claimant started working for the employer on September 7, 2007. He worked full time as a C-N-C operator in the employer's Muscatine, Iowa component plant, working on a shift from 4:00 a.m. to 1:00 p.m. His last day of work was March 24, 2015. At around 6:00 p.m. that evening he called the plant and spoke to the employer's evening shift human resources representative; he indicated that he was upset with the recent changes to the employer's wage structure. Those changes, effective March 1, raised the entry level wage by \$.25 per hour, and increased the max wage per grade by \$.50 per hour. There was no immediate effect on the

claimant's wage; he was currently making \$16.72 per hour, and his max potential was raised from \$18.45 to \$18.95. He commented to the human resources representative that he felt the company was more concerned about its new hires than its existing employees, and that he was quitting. He further indicated that he was quitting for another, better job; however, there is no information available to verify that the claimant in fact entered into new employment, in fact, he began seeking unemployment benefits less than two weeks after he resigned from the employer.

The claimant established a claim for unemployment insurance benefits effective April 5, 2015. A fact-finding interview was scheduled to be held with a Claims representative at 9:10 a.m. on April 15, 2015. The employer asserted that it participated by submitting documentation in lieu of personally participating in the fact-finding interview. The documentation submitted to the representative was not available for review by the administrative law judge at the time of the hearing. The claimant has received unemployment insurance benefits after the separation in the amount of \$3,328.00.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993); *Wills v. Employment Appeal Board*, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. Rule 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment is not good cause. Rule 871 IAC 24.25(21). Quitting because of a dissatisfaction with the wage paid, where the claimant had previously known and accepted the wage is not good cause. Rule 871 IAC 24.25(13). Quitting to seek new employment, where other employment has not actually been obtained prior to quitting, is not good cause. Rule 871 IAC 24.25(3). The claimant has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. *O'Brien v. Employment Appeal Board*, 494 N.W.2d 660 (Iowa 1993); *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (FL App. 1973). The claimant has not satisfied his burden. Benefits are denied.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. However, the overpayment will not be recovered when it is based on a reversal on appeal of an initial determination to award benefits on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. Participation, which can include by written participation under certain circumstances, is defined in Rule 871 IAC 24.10. The employer will not be charged for benefits whether or not the overpayment is recovered. Iowa

Code § 96.3-7. In this case, the claimant has received benefits but was ineligible for those benefits. The matter of determining the amount of the overpayment and whether the overpayment is subject to collection under Iowa Code § 96.3-7-b, specifically including a determination on the participation issue, is remanded the Benefits Bureau.

DECISION:

The representative's April 16, 2015 decision (reference 01) is reversed. The claimant voluntarily left his employment without good cause attributable to the employer. As of March 24, 2015, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The matter is **REMANDED** to the Benefits Bureau for investigation and determination of the overpayment, participation, and chargeability issues.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css