

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

EUGENE SIKORA
Claimant

VAN GORP CORPORATION
Employer

APPEAL 21A-UI-10129-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 02/28/21
Claimant: Respondent (2)**

Iowa Code § 96.5(1) – Voluntary Quitting of Work
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview
PI 116-136 Section 2104 – Federal Pandemic Unemployment Compensation (FPUC)

STATEMENT OF THE CASE:

The employer/appellant filed an appeal from the March 30, 2021 (reference 01) unemployment insurance decision that allowed benefits to the claimant based upon a discharge from work. The parties were properly notified of the hearing. A telephone hearing was held on June 24, 2021. The claimant did not participate. The employer participated through witness Stacy Ford. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Has the claimant been overpaid any regular 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?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began his employment on February 17, 2021 and his last day physically worked on the job was April 30, 2021. He was employed full-time as a welder. Claimant was scheduled to work but failed to come to work or notify the employer of his absence on May 3, 2021, May 4, 2021, and May 5, 2021. The employer has a written policy stating that the failure to come to work or notify the employer of your absence from work for three consecutive days shall constitute a voluntary quitting of work. Claimant received a copy of this policy on February 17, 2021. On or about May 6, 2021, the claimant notified Ms. Ford that he had moved out of the State of Iowa and was not coming back to work because of personal issues.

Claimant's administrative records establish that he has not received any regular unemployment insurance benefits funded by the State of Iowa as no weekly-continued claims for benefits have been filed on his account. Claimant has received no Federal Pandemic Unemployment Compensation (FPUC) benefits. No fact-finding interview was conducted and the employer

received no prior notification that a fact-finding interview would occur. The employer was not given an opportunity to provide information about the separation from employment at a fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code §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.

Claimant had an intention to quit and carried out that intention by never returning back to work. As such, 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).

Iowa Admin. Code r. 871-24.25(23) 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:

- (23) The claimant left voluntarily due to family responsibilities or serious family needs.

Iowa Admin. Code r. 871-24.25(2) 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:

- (2) The claimant moved to a different locality.

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

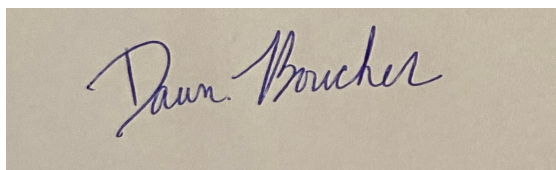
Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified 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.

Claimant voluntarily quit his employment with the employer in order to move out of the State of Iowa due to personal issues, while failing to provide the employer notification of his absences for three days in violation of the employer's written policy. Claimant's voluntary quitting was without good cause attributable to the employer. Regular unemployment insurance benefits funded by the State of Iowa are denied. Because no regular unemployment insurance benefits or FPUC benefits have been paid to the claimant on the account, the issues of overpayment of benefits and chargeability are moot.

DECISION:

The March 30, 2021 (reference 01) unemployment insurance decision is reversed. Claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits funded by the State of Iowa are denied until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount after his separation date, and provided he is otherwise eligible.



Dawn Boucher
Administrative Law Judge

July 6, 2021
Decision Dated and Mailed

db/kmj

Note to Claimant

- This decision determines you are not eligible for regular unemployment insurance benefits funded by the State of Iowa 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 funded by the State of Iowa under state law, you may qualify for benefits under the Federal Pandemic Unemployment Assistance ("PUA") section of the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act") that discusses eligibility for claimants who are unemployed due to the Coronavirus.

- You will need to apply for PUA to determine your eligibility under the program. For additional information on how to apply for PUA go to: <https://www.iowaworkforcedevelopment.gov/pua-information>. If you have applied and have been approved for PUA benefits, this decision will **not** negatively affect your entitlement to PUA benefits.

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. PUA claims may be backdated prior to June 12, 2021 depending on eligibility requirements. Additional information can be found at: <https://www.iowaworkforcedevelopment.gov/COVID-19>