

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JOSHUA M SUAHL**  
Claimant

**HY-VEE INC**  
Employer

**APPEAL 20A-UI-05481-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/15/20**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)

**STATEMENT OF THE CASE:**

The claimant/appellant, Joshua M. Suahl, filed an appeal from the June 3, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 8, 2020. The claimant participated personally. The employer, Hy-Vee Inc., participated through Erin Bewley, hearing representative for Corporate Cost Control. Greg Nystrom testified.

The administrative law judge took official notice of the administrative records. Claimant Exhibit A was admitted. 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:**

Did the claimant voluntarily quit the employment with good cause attributable to the employer?  
Has the claimant been overpaid any unemployment insurance benefits?  
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 part-time as a courtesy clerk/stocker and was separated from employment on October 17, 2019, when he quit the employment. Continuing work was available.

The claimant stated he quit to focus on his schooling at DMACC. At the time of separation, the claimant informed the employer he was quitting due to schooling and that he was unsatisfied with wages.

The claimant stated that prior to quitting, there had been an incident in which he had accidentally hit the car of another employee, and that while he was trying to contact the

employee to report the accident and make plans to fix it, a manager named Rafa, called the police on him. The claimant was upset by this incident and felt targeted because he was an "immigrant and a black person" (Claimant Exhibit A). The employer acknowledged it was not customary to call law enforcement in this type of situation. The claimant continued working, in light of being uncomfortable with the incident and did not report to human resources or upper management that he was considering leaving the employment because of the incident.

His quitting coincided with his move to live on campus for schooling (Claimant Exhibit A).

The administrative record reflects that claimant has received unemployment benefits in the amount of \$677.00, since filing a claim with an effective date of March 15, 2020. The claimant also received federal unemployment insurance benefits through Federal Pandemic Unemployment Compensation (FPUC). Claimant received \$3,000.00 in federal benefits through May 30, 2020.

### **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 Code section 96.5(1) 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.

Iowa Admin. Code r. 871-24.25(26) 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:

(26) The claimant left to go to school.

The claimant has the burden of proof to establish he quit with good cause attributable to the employer, according to Iowa law. "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. Industrial Relations Commission*, 277 So.2d 827 (Fla. App. 1973).

Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code section 96.2. *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993)(citing *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the

action, and always the element of good faith.” *Wiese v. Iowa Dep’t of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). “[C]ommon sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee’s quit in order to attribute the cause for the termination.” *Id.*

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O’Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993).

In this case, the claimant voluntarily quit the employment for his schooling. While the incident involving law enforcement being called on him by management is deeply concerning, it did occur a month or two before quitting. While a claimant does not have to specifically indicate or announce an intention to quit if claimant’s concerns are not addressed by the employer, for a reason for a quit to be “attributable to the employer,” a claimant faced with working conditions that claimant considers intolerable, unlawful or unsafe must normally take the reasonable step of notifying the employer about the unacceptable condition in order to give the employer reasonable opportunity to address claimant’s concerns. *Hy-Vee Inc. v. Employment Appeal Board*, 710 N.W.2d 1 (Iowa 2005); *Swanson v. Employment Appeal Board*, 554 N.W.2d 294 (Iowa 1996); *Cobb v. Employment Appeal Board*, 506 N.W.2d 445 (Iowa 1993). If the employer subsequently fails to take effective action to address or resolve the problem it then has made the cause for quitting “attributable to the employer.” The evidence presented does not support the claimant notified upper management or human resources that the incident was causing claimant to want to leave the employment, to allow the employer to address the situation with Rafa and help the claimant preserve employment.

Based upon the timing of the quitting, and moving to live on campus, the administrative law judge is persuaded it was the move and schooling which triggered the resignation and not the prior incident involving the car. The administrative law judge is sympathetic to the claimant and recognizes claimant had good personal reasons to quit the employment. However, the evidence presented does not support that claimant voluntarily quit the employment for good cause reasons attributable to the employer, according to Iowa law. Accordingly, benefits must be withheld.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, he/she 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 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. The claimant must apply for PUA, as noted in the instructions provided in the “Note to Claimant” below.

*As the claimant has received benefits to which he was not entitled, the next issue in this case is whether the claimant was overpaid unemployment insurance benefits.*

Iowa Code § 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

Since the decision disqualifying the claimant has been affirmed, he was overpaid \$677.00 in regular unemployment insurance benefits.

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment.--In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

Here, the claimant is disqualified from receiving regular unemployment insurance (UI) benefits. Accordingly, this also disqualifies the claimant from receiving Federal Pandemic Unemployment Compensation (FPUC). In addition to the regular UI benefits he received an additional \$3,000.00 in FPUC benefits for the five-week period ending May 30, 2020. The claimant may have to repay the benefits received thus far, unless the claimant applies and is approved for PUA, as directed in the paragraph below.

**DECISION:**

The unemployment insurance decision dated June 3, 2020, (reference 01) is affirmed. 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.

The claimant has been overpaid \$677.00 in regular unemployment insurance benefits. The claimant has also been overpaid \$3,000.00 in Federal Pandemic Unemployment Compensation. The claimant may have to repay the benefits received thus far, unless the claimant applies and is approved for PUA, as directed below.

**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.
- If you do not qualify for regular unemployment insurance benefits due to disqualifying separations and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** More information about how to apply for PUA is available online at:  
[www.iowaworkforcedevelopment.gov/pua-information](http://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.**



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July 21, 2020  
Decision Dated and Mailed

jlb/sam