

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DERREK BUSH
Claimant

MC SOIFER'S INC
Employer

APPEAL 21A-UI-22259-DB-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/15/21
Claimant: Respondent (2)

Iowa Code § 96.5(1) – Voluntary Quitting of Work
Iowa Code § 96.3(7) – Overpayment of Benefits
Iowa Admin. Code r. 871-24.10 – Employer Participation in Fact-Finding Interview

STATEMENT OF THE CASE:

The employer/appellant filed an appeal from the October 1, 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 December 2, 2021. The claimant did not participate. The employer participated through witnesses Tonya Hettinger and Shawn Sorenson. 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?
Was the claimant overpaid benefits?
Is the employer's account chargeable due to participation in the fact-finding interview?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for this employer as a crew member on August 2, 2021. He worked on August 11, 2021 and suffered a burn to his hand at work. He sought medical treatment on August 18, 2021 and was advised by the physician that he could return to work without restrictions on August 25, 2021. Claimant failed to return to work on or after August 25, 2021. Employer reached out to claimant and was never contacted back. There was continuing work available to him if he would have continued to work. The employer was never notified of any fact-finding interview and did not participate in a fact-finding interview. Claimant's administrative records establish that he has not received any benefits to date.

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 failing to come to work for any further shifts. 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(27) provides:

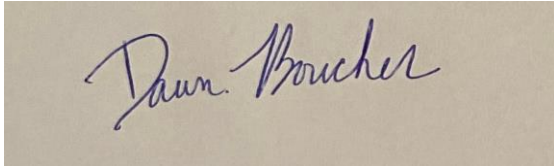
Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified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

- (27) The claimant left rather than perform the assigned work as instructed.

The claimant's voluntary quitting was not for a good-cause reason attributable to the employer according to Iowa law. As such, the separation from employment is disqualifying and unemployment insurance benefits funded by the State of Iowa must be denied. Because the claimant has not been paid any benefits to date, the issues of overpayment of benefits and chargeability are moot.

DECISION:

The October 1, 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 the weekly benefit amount after the August 25, 2021 separation date, and provided he is otherwise eligible.

A rectangular area containing a handwritten signature in blue ink that reads "Dawn Boucher". The signature is written in a cursive style on a light-colored, textured background.

Dawn Boucher
Administrative Law Judge

December 9, 2021
Decision Dated and Mailed

db/db