

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CHELSIE BOWMAN**  
Claimant

**LIFE CARE SERVICES LLC**  
Employer

**APPEAL 16A-UI-05795-JP-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/10/16**  
**Claimant: Respondent (4/R)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-Finding Interview

**STATEMENT OF THE CASE:**

The employer filed an appeal from the May 13, 2016 (reference 01) unemployment insurance decision that allowed benefits from April 10, 2016 until May 21, 2016. The parties were properly notified about the hearing. A telephone hearing was held on June 9, 2016. Claimant did not participate. Employer participated through director of human resources Lisa Ryan. Employer's Exhibit One was admitted into evidence with no objection. Official notice was taken of following fact-finding documents: Iowa Workforce Development Notice of Unemployment Insurance Fact-Finding Interview, FACT-FINDING WORKSHEET FOR VOLUNTARY QUIT, and the resignation letter dated April 13, 2016, with no objection. Official notice was taken of claimant's benefit payment records.

**ISSUES:**

Did claimant voluntarily quit the employment with good cause attributable to employer?

Has the claimant been overpaid unemployment insurance benefits and, if so, can the repayment of those benefits to the Agency be waived?

Can 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: Claimant was employed full time as a financial systems support analyst from June 16, 2014 and was separated from employment on April 14, 2016.

Claimant gave the employer a resignation letter on April 13, 2016. Employer Exhibit One. Claimant resigned effective May 18, 2016. Employer's Exhibit One. The employer does not require employees to provide any notice on resignation, but to receive their vacation payout, the employer requires four week notice. Claimant resigned because she accepted another job. Employer's Exhibit One. The employer told claimant she was not required to work through her

notice period. Employer's Exhibit One. Claimant was paid through her resignation period of May 18, 2016. Employer's Exhibit One. Claimant was paid her normal wage through May 18, 2016. Employer's Exhibit One. There was continuous work available for claimant had she not quit.

The administrative record reflects that claimant has received unemployment benefits in the amount of \$894.00, since filing a claim with an effective date of April 10, 2016, for the six weeks ending May 21, 2016. The administrative record also establishes that the employer did participate in the fact-finding interview by providing written documentation that, without rebuttal, would have resulted in disqualification.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant voluntarily left the employment to accept employment elsewhere, but was discharged for no disqualifying reason prior to the intended resignation date.

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.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency,

unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Iowa Admin. Code r. 871-24.25(38) 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:

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

Iowa Code § 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Iowa Admin. Code r. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

On April 13, 2016, claimant informed the employer she was quitting to accept other employment and that her last day would be May 18, 2016. Employer's Exhibit One. Claimant's decision to quit because she accepted other employment was not a good cause reason attributable to the employer. Even though the claimant's quit was without good cause attributable to the employer and would, standing alone, disqualify her from receiving benefits, she did leave in order to accept other employment. Accordingly, benefits are allowed. The account of the employer shall not be charged as of May 18, 2016.

The employer did not require claimant to work until May 18, 2016 and she was effectively separated from employment on April 14, 2016, prior to her resignation effective date. Employer's Exhibit One. Because the employer separated claimant from employment in response to a resignation notice, no misconduct is established. Since the employer separated the employment relationship in advance of the resignation notice effective date (May 18, 2016), claimant would normally be entitled to benefits from the date of termination until the effective date of the proposed resignation and the account of the employer would be charged for that period; however, the employer presented evidence that she was compensated as though she was working until the effective date (May 18, 2016). Employer's Exhibit One ("Your last work day is April 14, 2016. However, we will pay you through your resignation period of May 18, 2016."). The administrative record shows from April 10, 2016 until May 21, 2016, claimant received unemployment insurance benefits in the amount of \$894.00. It is unclear if claimant's wages were reported correctly during the time period from April 10, 2016 until May 21, 2016.

**DECISION:**

The May 13, 2016 (reference 01) decision is modified in favor of the appellant. Claimant voluntarily left the employment in order to accept other employment. Benefits are allowed as of May 18, 2016, provided claimant is otherwise eligible. The account of the employer (account number 291302-000) shall not be charged as of May 18, 2016.

**REMAND:**

The issue delineated in the findings of fact regarding whether claimant's wages were properly reported from April 10, 2016 until May 21, 2016 is remanded to the Investigation and Recovery Bureau for an initial investigation and determination.

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Jeremy Peterson  
Administrative Law Judge

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Decision Dated and Mailed

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