

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JEFFREY W WHITEHILL
Claimant

SACHS ELECTRIC CO
Employer

APPEAL 20A-UI-04056-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 03/29/20
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

STATEMENT OF THE CASE:

Claimant filed an appeal from the May 5, 2020 (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on June 1, 2020, at 10:00 a.m. Claimant participated. Employer did not participate. Claimant's Exhibit A was admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant's separation was a voluntary quit without good cause attributable to employer.
Whether claimant was overpaid benefits.
Whether claimant is eligible for Federal Pandemic Unemployment Compensation.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time Journeyman Wireman and Electrician from January 11, 2019 until his employment with Sachs Electric Co. ended on January 18, 2020. Claimant knew prior to accepting the position with employer that his work site would be located in Council Bluffs, Iowa and that he would be expected to work 58 hours per week. Claimant resides in Lincoln, Nebraska. Claimant's round trip commute was a total of 135 miles. The commute distance and work hours did not change during claimant's employment. In early January 2020, claimant tendered his verbal resignation effective January 18, 2020. Claimant quit because the work hours and commute time were negatively impacting his family.

The administrative record reflects that claimant filed for and has received regular unemployment insurance (UI) benefits in the gross amount of \$1,924.00 for the four-week period between March 29, 2020 and April 25, 2020. In addition to regular unemployment insurance benefits, claimant also received Federal Pandemic Unemployment Compensation (FPUC) in the gross amount of \$2,400.00 for the four-week period between March 29, 2020 and April 25, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit his employment without good cause attributable to employer. Benefits are denied.

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). 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). Where a claimant gives numerous reasons for leaving employment the agency is required to consider all stated reasons which might combine to give the claimant good cause to quit in determining any of those reasons constitute good cause attributable to the employer. *Taylor v. Iowa Dep't of Job Serv.*, 362 N.W.2d 534 (Iowa 1985).

Iowa Admin. Code r. 871-24.25(30) 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:

(30) The claimant left due to the commuting distance to the job; however, the claimant was aware of the distance when hired.

Claimant's verbal resignation is both evidence of his intention to sever the employment relationship and an overt act of carrying out his intention. Claimant voluntarily quit his employment. Claimant quit due to the commuting distance and time, but knew the location of the work site when he accepted the job with employer. While claimant's time away from his family may be a good personal reason for quitting his job, it is not good cause attributable to employer. Claimant has not met his burden of proving he voluntarily quit his employment for good cause attributable to employer. Benefits are denied.

The next issue to be determined is whether claimant has been overpaid benefits. For the reasons that follow, the administrative law judge concludes claimant was overpaid benefits, which must be repaid.

Iowa Code section 96.3.(7) states:

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.

Because the disqualifying decision has been affirmed, benefits were paid to which claimant was not entitled. The administrative law judge concludes that claimant has been overpaid UI in the gross amount of \$1,924.00 for the four-week period between March 29, 2020 and April 25, 2020. Claimant is required to repay those 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...

Because claimant is disqualified from receiving UI, claimant is also disqualified from receiving FPUC. The administrative law judge concludes that claimant has been overpaid FPUC in the gross amount of \$2,400.00 for the four-week period between March 29, 2020 and April 25, 2020. Claimant is required to repay those benefits.

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. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but

who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

DECISION:

The May 5, 2020 (reference 02) unemployment insurance decision is affirmed. Claimant voluntarily quit without good cause attributable to employer. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. Claimant has been overpaid regular unemployment insurance benefits in the gross amount of \$1,924.00 for the four-week period between March 29, 2020 and April 25, 2020, which must be repaid. Claimant has been overpaid Federal Pandemic Unemployment Compensation in the gross amount of \$2,400.00 for the four-week period between March 29, 2020 and April 25, 2020, which must be repaid.



Adrienne C. Williamson
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June 16, 2020
Decision Dated and Mailed

acw/scn