

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LEROY W BARNES
Claimant

L A LEASING INC
Employer

APPEAL 17A-UI-09280-JCT
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/30/17
Claimant: Respondent (4)

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 August 31, 2017, (reference 04) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on September 28, 2017. The claimant did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing. The employer participated through unemployment benefits administrator Colleen McGuinty. Tanner McCutcheon, account manager, also testified for the employer. The administrative law judge took official notice of the administrative records including the fact-finding documents. 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 quit to accept other employment?
Has the claimant been overpaid any 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 was last employed on assignment at client company, NIS. On May 2, 2017, he informed Tanner McCutcheon, account manager, that he was quitting the assignment effective May 5, 2017. The claimant last performed work on May 4, 2017, and was a no call/no show to his assignment on May 5, 2017. The claimant did not contact the employer thereafter to ever request reassignment, in accordance with the policy which he received upon hire. The claimant stated he had accepted employment with another employer but did not provide details to the employer.

The administrative record reflects that claimant has received unemployment benefits in the amount of \$633.00, since filing a claim with an effective date of July 30, 2017. The administrative record also establishes that the employer did participate in the fact-finding interview or make a witness with direct knowledge available for rebuttal.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment to accept employment elsewhere.

Iowa Code § 96.5-1-a 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. 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.

In this case, the claimant quit his assignment and employment on May 4, 2017, to accept other employment. Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment. Accordingly, benefits are allowed and the account of this employer shall not be charged.

DECISION:

The August 31, 2017, (reference 04) decision is modified in favor of the appellant. The claimant voluntarily left the employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The issue of overpayment is moot. The account of this employer shall not be charged.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn