

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHANTEL C BRANDHAGEN
Claimant

APPEAL 20R-UI-11455-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

COVERT/SOUTH HAVEN KOA
Employer

OC: 06/09/19
Claimant: Respondent (2R)

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
PL 116-136, Sec. 2104(b) – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

On June 15, 2020, the employer filed an appeal from the June 9, 2020, (reference 05) unemployment insurance decision that allowed benefits based on a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on August 4, 2020. Claimant did not answer at the telephone number she provided for the hearing and did not participate. Employer participated through co-owner and administrative employee Elizabeth DeRosa. The initial decision was reversed, denying benefits to claimant. See Appeal 20A-UI-06586-CL-T.

Claimant successfully requested reopening to the Employment Appeal Board, who remanded the matter for a new hearing. After proper notice, a telephone hearing was conducted on November 10, 2020. Claimant participated personally. Employer participated through Elizabeth DeRosa. 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 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?
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: Employer is a seasonal campground located in Michigan. On March 16, 2020, employer hired claimant to work for employer as a full-time, seasonal customer service representative.

Claimant worked for employer on March 16 and 17, 2020. Claimant watched orientation videos on both days.

Claimant's son also worked for employer. Claimant's son resigned after claimant's orientation. Claimant's employment was independent from her son's. Nevertheless, on March 22, 2020, claimant sent administrative employee Elizabeth DeRosa an email stating she was sorry it did not work, but she had to resign as well. Claimant stated she could not stay at the job site because her son's truck tows her camper.

The administrative record reflects that claimant has received unemployment benefits, Pandemic Unemployment Emergency Compensation (PEUC) benefits, and Federal Pandemic Unemployment Compensation (FPUC) benefits since this separation from employment.

Employer did not participate in the fact finding interview because it did not receive a notice of the fact finding interview or a telephone call.

Since separation, claimant worked at Adventureland from June 3, 2020 until October 3, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was 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.

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).

In this case, claimant resigned for personal reasons, and did not resign for a good cause reason attributable to employer.

The next issue is whether claimant was overpaid benefits and should have to repay those benefits. In this case, claimant received regular unemployment insurance benefits, PEUC benefits, and FPUC benefits after her separation from employment. While the issues regarding overpayment of regular and FPUC benefits were on the hearing notice, the issue regarding entitlement to and overpayment of PEUC benefits was not. Therefore, the issue regarding overpayment of benefits will be remanded to the Benefits Bureau of Iowa Workforce Development for a calculation.

Claimant should not be required to repay regular unemployment insurance benefits and employer should be charged for unemployment insurance benefits, as employer did not

participate in the fact finding interview through no faults of its own. See Iowa Code § 96.3(7)a-b; Iowa Admin. Code r. 871 24.10.

DECISION:

The June 9, 2020, (reference 05) unemployment insurance decision is reversed. The claimant resigned without good cause attributable to employer. Regular unemployment insurance benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant has been overpaid unemployment insurance benefits and the issue of the amount of the overpayment will be remanded to the Benefits Bureau of Iowa Workforce Development for calculation. The claimant will not be required to repay regular unemployment insurance benefits and employer will not be charged for any benefits because employer did not participate in the fact finding interview through no fault of its own.

REMAND:

The issue of claimant's overpayment of regular unemployment insurance benefits, PEUC benefits, and FPUC benefits is remanded to the Benefits Bureau of Iowa Workforce Development for a calculation and decision. Claimant will not be required to repay the overpayment of regular unemployment insurance benefits and employer will not be charged.

The issue of whether the claimant has requalified for benefits is remanded to the Benefits Bureau for an initial investigation and decision.



Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

November 30, 2020
Decision Dated and Mailed

jlb/scn

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>.