

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DANIELLE NOREM**  
Claimant

**UFP TECHNOLOGIES INC**  
Employer

**APPEAL 20A-UI-01197-AW-T  
ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/22/19  
Claimant: Respondent (1)**

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Iowa Code § 96.5(2)a – Discharge for Misconduct  
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:**

Employer filed an appeal from the January 31, 2020 (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified of the hearing. A telephone hearing was held on February 26, 2020, at 9:00 a.m. Claimant participated. Employer participated through Matt Goddu, Hearing Representative. No exhibits were admitted. Official notice was taken of the administrative record.

**ISSUES:**

Whether claimant's separation was a discharge for disqualifying job-related misconduct or a voluntary quit without good cause attributable to employer.  
Whether claimant was overpaid benefits.  
Whether claimant should repay those benefits and/or whether employer should be charged based upon its participation in the fact-finding interview.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time packer from June 10, 2019 until her employment with UFP Technologies, Inc. ended on January 10, 2020. (Claimant Testimony) Claimant worked Monday through Friday from 7:00 a.m. until 3:00 p.m. (Claimant Testimony) Claimant's direct supervisor was Matt Lamere, Manufacturing Manager. (Goddu Testimony)

On January 6, 2020, employer decided to change its employees' work schedules from three (8-hour) shifts to two (12-hour) shifts. (Goddu Testimony) Employer had employees complete a survey indicating their availability for day and night shifts and shift start and end times. (Claimant Testimony) Employer told employees that if they could not work 12-hour shifts then there would not be positions available for them. (Claimant Testimony)

Claimant completed the form indicating she was available for the day shift from 6:00 a.m. - 6:00 p.m. (Claimant Testimony) Employer chose the 5:00 a.m. – 5:00 p.m. and 5:00 p.m. – 5:00 a.m. shifts because it corresponded to the majority of employees' survey responses. (Claimant Testimony) Claimant's childcare is not available until 5:30 a.m., so claimant could not begin work at 5:00 a.m. (Claimant Testimony) Claimant informed employer that she could not work the shift employer chose due to childcare. (Claimant Testimony) Employer had claimant complete a voluntary resignation form. (Goddu Testimony) Other employees who were not available for the 12-hour shifts were laid-off by employer. (Goddu Testimony) Claimant would have continued her employment at her original work schedule or at the 6:00 a.m. to 6:00 p.m. schedule. (Claimant Testimony)

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

For the reasons that follow, the administrative law judge concludes claimant did not voluntarily quit her employment; claimant was discharged for no disqualifying reason. Benefits are allowed provided claimant is otherwise eligible.

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code §§ 96.5(1). 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). Where there is no expressed intention or act to sever the employment relationship, the case must be analyzed as a discharge from employment. *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). In this case, claimant had no intention of terminating her employment relationship with UFP Technologies, Inc. Claimant would have continued her employment at her original shift or the 6:00 a.m. to 6:00 p.m. shift. Claimant's resignation was not voluntary. Therefore, claimant's separation from employment must be analyzed as a discharge.

Iowa Code section 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 disqualification shall continue 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:

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 of misconduct has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Reigelsberger v. Emp't Appeal Bd.*, 500 N.W.2d 64, 66 (Iowa 1993); *accord Lee v. Emp't Appeal Bd.*, 616 N.W.2d 661, 665 (Iowa 2000). Further, the employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982).

There is no evidence of misconduct by claimant. Employer has not met its burden of proving disqualifying job-related misconduct. Benefits are allowed provided claimant is otherwise eligible.

Because claimant's separation was not disqualifying, the issues of overpayment, repayment and chargeability are moot.

**DECISION:**

The January 31, 2020 (reference 01) unemployment insurance decision is affirmed. Claimant was discharged for no disqualifying reason. Benefits are allowed provided claimant is otherwise eligible. The issues of overpayment, repayment and chargeability are moot.

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Adrienne C. Williamson  
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Decision Dated and Mailed

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