

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

KIM W HOLLINGSWORTH
Claimant

APPEAL NO: 15A-UI-07284-LDT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ABM ONSITE SERVICES MIDWEST INC
Employer

OC: 05/31/15

Claimant: Respondent (4)

Section 96.5-1 – Voluntary Leaving/Requalification
Section 96.3-7 – Recovery of Overpayment of Benefits
871 IAC 24.10 – Employer Participation

STATEMENT OF THE CASE:

ABM Onsite Services Midwest, Inc. (employer) appealed a representative's June 16, 2015, decision (reference 01) that concluded Kim W. Hollingsworth (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 29, 2015. The claimant participated in the hearing. Deniece Norman appeared as representative on the employer's behalf and presented testimony from one witness, Joe Bolt. The hearing record was left open through July 31, 2015 for receipt of subsequent wage documentation from the claimant, which was received and entered as Claimant's Exhibit A. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision modifying the representative's decision and allowing the claimant benefits.

ISSUES:

Did the claimant voluntarily quit, and if so is he disqualified from receiving unemployment insurance benefits? Was the claimant overpaid unemployment insurance benefits, and if so, is that overpayment subject to recovery based upon whether the employer participated in the fact-finding interview?

FINDINGS OF FACT:

The claimant started working for the employer on February 23, 2014. He worked full time as site manager at the employer's Cedar Rapids, Iowa business client's location. His last day of work was March 27, 2015. He voluntarily quit as of that date, having put in his notice of resignation on or about March 13. He did not specify his reason for quitting in his notice. His actual reason for quitting was that he found the job too stressful and he felt there was a lack of necessary formal training; in particular, he felt that the office manager exercised too much micromanagement and created too much pressure. He had heard through rumor at least six months prior that she "wanted him gone." However, he had not been advised that his job was in any jeopardy. The most recent interaction he had with her that triggered his decision to leave

was on or about March 1 when the office manager came to the storage room and started directly with inquiries about the products on the shelf with no personal interaction at all.

The claimant established an unemployment insurance benefit year effective May 31, 2015. His weekly benefit amount was calculated to be \$394.00. After leaving the employment with the employer the claimant had other employment. He earned over \$3,900.00 in that other employment.

The claimant established a claim for unemployment insurance benefits effective May 31, 2015. A fact-finding interview was held with a Claims representative at 9:10 a.m. on June 5, 2015. The Claims representative attempted to contact the employer's representative, but the employer's representative affirmatively declined to participate.

REASONING AND CONCLUSIONS OF LAW:

Rule 871 IAC 24.25 provides that, 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 claimant did express his intent not to return to work with the employer. A voluntary leaving of employment requires an intention to terminate the employment relationship. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993). The claimant did exhibit the intent to quit and did act to carry it out. The claimant would normally be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

Iowa Code § 96.5-1-g 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:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code §96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. Rule 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. Rule 871 IAC 24.25(21), (22). While the claimant's work situation was perhaps not ideal, he has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. *O'Brien v. Employment Appeal Board*, 494 N.W.2d 660 (Iowa 1993); *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (FL App. 1973). The claimant has not satisfied his burden.

However, the administrative law judge further concludes from the available information that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed, and there is no overpayment of benefits.

The remaining question is whether the employer's account is subject to charge. An employer's account is not subject to charge if a representative's decision allowing benefits is reversed on appeal where the employer participated in the initial proceeding that awarded benefits. Iowa Code § 96.3-7-a, -b; Rule 871 IAC 24.10. Here the employer did not participate in the fact-finding interview, but rather affirmatively declined to participate. The employer remains subject to charge for the benefits received by the claimant through the date of this decision. By virtue of the employer's participation in the appeal hearing which led to the conclusion that the voluntary quit was not for good cause, the employer's account is relieved of charge for benefits paid after the effective date of this decision.

DECISION:

The representative's June 16, 2015, decision (reference 01) is modified in favor of the employer. The claimant voluntarily left his employment without good cause attributable to the employer, but has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged for benefits paid for weeks after the effective date of this decision.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/mak