

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NADER SAEID
Claimant

APPEAL 21A-UI-16661-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

ANJANI HOLDING COMPANY LLC
Employer

OC: 04/11/21
Claimant: Respondent (2)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit
Iowa Admin. Code r. 871-24.10 – Employer Participation in Fact-Finding Interview
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
PL 116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Anjani Holding Company LLC, the employer/appellant, filed an appeal from the July 20, 2021, (reference 03) unemployment insurance decision that allowed benefits. The parties were properly notified of the hearing. A telephone hearing was held on September 21, 2021. The employer participated through Amy Hayes. Mr. Saeid participated and testified. The administrative law judge took official notice of the administrative record.

ISSUE:

Was Mr. Saeid discharged for disqualifying job-related misconduct or did he voluntarily quit without good cause attributable to the employer?
Was Mr. Saeid overpaid benefits?
If so, should he repay the benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Saeid began working for the employer on December 26, 2020. He worked as a full-time cook.

Sometime in March 2021, Mr. Saeid requested pay increase from the employer. The employer said they would look into it. By April 2021, the employer had not gotten back to Mr. Saeid. Mr. Saeid worked on Saturday, April 3, 2021. He did not have help cooking that day. Mr. Saeid asked the employer again for a pay increase. He also asked for help in the kitchen. Mr. Saeid told the employer that his if pay was not increased or if the employer did not hire more staff, he would quit. The employer would not agree to increase Mr. Saeid's pay or hire more staff.

Mr. Saeid was scheduled to work every day the following week. Mr. Saeid did not attend work and he did not call in. On Friday, April 9, Mr. Saeid went to pick up his paycheck. The employer did not give Mr. Saeid his paycheck that day, but instead sent it to him later. The

employer's policy provides that if an employee is a No-Call/No-Show for three consecutive day the employee is considered to have abandoned their job.

Mr. Saeid has received \$0.00 in REGULAR unemployment insurance (UI) benefits, and \$0.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits as of April 11, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Mr. Saeid'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:

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.

Iowa Admin. Code r. 871-24.25(4) 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:

- (4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The 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). 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).

In this case, Mr. Saeid did not attend work or call-in to work on Monday, April 5, Tuesday, April 6, Wednesday, April 7, or any day after. By not attending work and not calling in for three consecutive days, Mr. Saeid quit. Benefits are denied.

Since Mr. Saeid has received \$0.00 in REGULAR UI benefits, and \$0.00 in FPUC benefits as of April 11, 2021, the issues of repayment and chargeability are moot.

DECISION:

The July 20, 2021, (reference 03) unemployment insurance decision is reversed. Mr. Saeid voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.



Daniel Zeno
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September 27, 2021
Decision Dated and Mailed

dz/mh