

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RONALD L HUFFORD
Claimant

CROP PRODUCTION SERVICES INC
Employer

APPEAL 16A-UI-09783-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/14/16
Claimant: Respondent (2)

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:

Crop Production Services, Inc. (employer) filed an appeal from the August 29, 2016, (reference 01) unemployment insurance decision that allowed benefits based upon the determination Ronald L. Hufford (claimant) voluntarily quit his employment due to a change in his contract of hire which is a good cause reason attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on September 23, 2016. The claimant did not participate. The employer participated through Employers Unity Claim Specialist Caley Heffner and Branch Manager Matt Goldenstein. It was represented by Todd Richardson of Employers Unity. Employer's Exhibit 1 was received.

ISSUES:

Did the claimant voluntarily quit the employment with good cause attributable to the employer?

Has the claimant been overpaid unemployment insurance benefits?

Can the repayment of those benefits to the agency be waived?

Can 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 employed full-time as an Applicator and Driver beginning on April 25, 2016, and was separated from employment the first week of August 2016, when he quit.

The claimant was initially applying chemicals to all types of fields and doing some driving. However, the sales representatives who worked with the farmers reported that farmers were complaining the claimant was destroying too many crops during his applications. As a result, the employer assigned him more driving tasks and to only apply chemicals on barren fields that were preparing for crops.

On July 27, 2016, Branch Manager Matt Goldenstein informed the claimant that he would only be driving for the rest of the summer. He explained some of the issues that were occurring with the claimant's applications. As a driver, the claimant would work the same hours at the same pay. The employer intended to send him to application training which occurred over the winter. The following week, the claimant reported to the office staff that he quit and walked out.

The administrative record reflects that claimant has received unemployment benefits in the amount of \$1,788.00, since filing a claim with an effective date of August 14, 2016, for the four weeks ending September 10, 2016. The administrative record also establishes that the employer did participate in the fact-finding interview.

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. Benefits based upon wages credited from this employer's account are denied.

Iowa law disqualifies individuals who voluntarily quit their employment without good cause attributable to the employer from receiving unemployment insurance benefits. Iowa Code § 96.5(1). A claimant is presumed to have voluntarily quit without good cause attributable to the employer if he quits rather than perform the assigned work as instructed. Iowa Admin. Code r. 871-24.25(27). However, good cause attributable to the employer exists when the employer willfully breaches the claimant's contract of hire. Iowa Admin. Code r. 871-24.26(1). The change must be substantial and usually involves changes in working hours, shifts, wages, or a "drastic modification in [the] type of work." *Id.* Minor changes do not constitute a change in the contract of hire. *Id.*

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). The claimant's decision to quit because he did not agree with the supervisor about the job tasks he was to perform when the duties were not a substantial change in the type of work for which he was hired was not for a good cause reason attributable to the employer. The claimant has not established that going from an application position to a driving position was a substantial change in his contract of hire. Accordingly, benefits must be denied.

Because the claimant's separation was disqualifying, benefits were paid to which he was not entitled. The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. Iowa Code § 96.7. However, the overpayment will not be recovered when it is based on a reversal on appeal of an initial determination to award benefits on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. Iowa Admin. Code r. 871-24.10(1). The employer will not be charged for benefits if it is determined that they did participate in the fact-finding interview. Iowa Code § 96.3(7), Iowa Admin. Code r. 871-24.10. In this case, the claimant has received benefits but was not eligible for those benefits. Since the employer did participate in the fact-finding interview the claimant is obligated to repay to the agency the benefits he received and the employer's account shall not be charged.

DECISION:

The August 29, 2016, (reference 01) unemployment insurance decision is reversed. The claimant voluntarily left the 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. The claimant has been overpaid unemployment insurance benefits in the amount of \$1,788.00 and is obligated to repay the agency those benefits. The employer did participate in the fact-finding interview and its account shall not be charged.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

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