

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**SARAH J DANFORTH**  
Claimant

**APPEAL NO. 18A-UI-06110-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BLAZIN WINGS INC**  
Employer

**OC: 05/06/18**  
**Claimant: Respondent (2)**

Iowa Code Section 96.5(1) – Voluntary Quit  
Iowa Code Section 96.3(7) - Overpayment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the May 22, 2018, reference 01, decision that allowed benefits to the claimant provided she was otherwise eligible and that held the employer's account could be charged for benefits, based on the Benefits Bureau deputy's conclusion that the claimant voluntarily quit on May 8, 2018 for good cause attributable to the employer. After due notice was issued, a hearing was held on June 19, 2018. Claimant Sarah Danforth participated. Drew Dillon represented the employer. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant and received Exhibit 1 into evidence.

**ISSUES:**

Whether the claimant's voluntary quit was for good cause attributable to the employer.

Whether the claimant was overpaid benefits.

Whether the claimant is required to repay benefits.

Whether the employer's account may be charged.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Sarah Danforth was employed by Blazin Wings, Inc. as a full-time shift manager until May 8, 2018, when she voluntarily quit. Ms. Danforth's final wage was \$13.50 per hour. Ms. Danforth started her employment in 2016 as a server and was promoted to shift manager in June 2017. Ms. Danforth worked at the employer's Buffalo Wild Wings restaurant in Cedar Falls. Toward the end of Ms. Danforth's employment, the Cedar Falls restaurant was without a general manager. Ms. Danforth's supervisors included Jessica Gokey, Hospitality Manager, and Drew Dillon, Service/Front of House Manager. Mr. Dillon had joined the employer in November 2017.

Toward the end of Ms. Danforth's employment, Brad Molle, the General Manager of the employer's Fort Dodge restaurant, assisted on a temporary basis with management of the Cedar Falls restaurant.

On April 26, 2018, Ms. Danforth posted a resignation memo in Cedar Falls restaurant office. Ms. Danforth wrote as follows:

Dear Team,

I regret to inform you that I, Sarah Danforth, will be leaving the buffalo team. This is a formal notice of my final two weeks here at buffalo wild wings. My last day will be the 10th of May. I want to start by thanking all of you for the lessons and laughs we have shared throughout my two years here. I will take these memories with me in my next journey and use them to learn and grow as both a manager and a person. I also want to make it clear that I do not want to leave on bad terms. I have no negative feelings against this company or any of the management team. I have been working two jobs six to seven days a week for about eight months now and it has taken a toll on me both physically and mentally. You have all been so kind and patient, even when I have not. I apologize for losing my temper and my mind some or maybe even most days. My greatest fear in life is to disappoint and so I would take on so many tasks to make others happy that somewhere along the way I forgot that if I'm not happy, then what's the point? I've been filled with anger and resentment for so long that often arises in times of stress and anxiety. That is not who I am, nor who I want to be. I hope you all can look past the problems I have had and/or caused and see that I really am just a ball of anxiety trying to do my best. Unfortunately for now, that means taking the stress of this job out of my life and spending more time doing things I am passionate about with the people who care about me. I will be working full-time at Sally Beauty in Waterloo and will be more than happy to give you great deals and gift suggestions if you ever decide to visit. Maybe one day after two years of eating this food I'll find myself craving some spicy garlic boneless and come for a visit myself. (Don't hold your breath) I hope you will all remember me with a smile on my face and an awkward laugh escaping my mouth as I try to hide how embarrassed I really am of it. If you ever need anything, you can always shoot me a text and I will do my best to help how I can. I am after all, a people pleaser.

Ms. Danforth decided to quit her employment after erroneously concluding that her employment was in jeopardy. About a month before Ms. Danforth submitted her quit notice, Ms. Gokey mentioned to Ms. Danforth that Mr. Dillon was unhappy with aspects of Ms. Danforth's performance. As Ms. Danforth's resignation memo indicates, Ms. Danforth could at times come across as uneven and unstable in her approach to her shift manager duties. A week or two before Ms. Danforth posted her resignation memo, she left a communication note for Mr. Dillon that Mr. Dillon perceived as condescending. The restaurant had been using an unusually large amount of fryer fat due to issues with the fryers and, therefore, had an unusually low amount of fryer fat on hand. In Ms. Danforth's memo to Mr. Dillon she wrote, "For the love of God, please order" more fryer fat. Ms. Danforth was upset when she learned that Mr. Dillon had discussed his feelings about the memo with other managers without speaking directly to her about the memo. On the morning of April 26, before Ms. Danforth posted her quit notice, Mr. Dillon spoke directly with Ms. Danforth concerning the memo and general concerns for improved communication. The discussion was civil. However, Ms. Danforth had already drafted her resignation and was unmoved by Mr. Dillon's good faith overture to improve their working relationship.

In making the decision to leave the employment, Ms. Danforth acted on her erroneous belief that the management staff were intentionally excluding her from the weekly managers' meeting. The managers' meeting was usually set for Tuesday. All management staff were welcome to attend, regardless of whether they were on the schedule to work at the time of the managers' meeting. Ms. Danforth decided she would not attend the managers' meeting unless the employer put her on the schedule to work on Tuesdays. In January and February 2018, Ms. Danforth requested to be scheduled to work on Tuesdays. Ms. Gokey prepared the work schedule with other managers scheduled to work on Tuesdays. Ms. Danforth had a second, part-time job at Sally Beauty and preferred to work Tuesdays at Sally Beauty rather than leave a portion of her Tuesday open so that she could participate in the managers' meeting.

At the time Ms. Danforth provided her quit notice, she had not been offered full-time employment at Sally Beauty and lacked even a tentative agreement with that part-time employer to transition to full-time employment. Ms. Danforth's work for Sally Beauty paid \$9.00 per hour, substantially less than her work at Buffalo Wild Wings. Ms. Danforth's work for Sally Beauty offered 20 to 25 hours per week, while the employment at Buffalo Wild Wings offered 35 to 40 hours per week.

Even after Ms. Danforth provided her quit notice, Mr. Dillon continued to try to persuade her to remain in the employment. Mr. Dillon offered to transition Ms. Danforth to a non-management position with favorable hours and the same pay she received as a shift manager. Ms. Danforth was not persuaded to rescind her quit notice. Ms. Danforth worked until May 8, 2018 and then had another shift manager cover her two remaining shifts.

Ms. Danforth established an original claim for unemployment insurance benefits that was effective May 6, 2018. Iowa Workforce Development calculated Ms. Danforth's weekly benefit amount at \$408.00. Ms. Danforth received \$1,087.00 in benefits for four weeks between May 6, 2018 and June 2, 2018. Blazin Wings, Inc. is a base period employer for purposes of Ms. Danforth's unemployment insurance claim.

On May 21, 2018, an Iowa Workforce Development Benefits Bureau deputy held a fact-finding interview that addressed Ms. Danforth's separation from the Blazin Wings, Inc. Drew Dillon represented the employer at the fact-finding interview.

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

Iowa Code section 96.5(1)a 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. But the individual shall not be disqualified if the department finds that:

- a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See Iowa Administrative Code rule 871-24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d 213 (Iowa 2005).

Iowa Admin. Code r. 871-24.25(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

Iowa Admin. Code r. 871-24.25(22) 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:

(22) The claimant left because of a personality conflict with the supervisor.

Iowa Admin. Code r. 871-24.25(6) 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:

(6) The claimant left as a result of an inability to work with other employees.

The evidence in the record establishes a voluntary quit without good cause attributable to the employer. The quit was effective May 8, 2018. The weight of the evidence fails to establish intolerable and/or detrimental working conditions that would have prompted a reasonable person to leave the employment. The mere fact that Mr. Dillon, one Ms. Danforth's supervisors had concerns about her employment that he discussed with other members of management did not establish intolerable or detrimental working conditions. Mr. Dillon did indeed discuss his concerns with Ms. Danforth and did so in a civil, productive manner. Contrary to Ms. Danforth's belief, she was not being forced out of the employment and was not being excluded from the managers' meeting. Rather, Ms. Danforth elected not to participate in the managers meeting because she wanted instead to work at her second, part-time job. Ms. Danforth's decision to leave the employment comes down to general dissatisfaction with the work environment, a perceived personality conflict with a supervisor, and an inability to continue work in a productive manner with her colleagues on the management team.

The evidence does not establish a voluntary quit to accept other, better employment. When Ms. Danforth submitted her resignation, and later when she separated from the employment, all she had to go to was the same part-time, lower-paying existing job at Sally Beauty.

Because the evidence establishes a voluntarily quit without good cause attributable to the employer, Ms. Danforth is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount. Ms. Danforth must meet all other eligibility requirements.

The unemployment insurance law requires that benefits be recovered from a claimant who receives benefits and is later deemed ineligible benefits even if the claimant acted in good faith and was not at fault. However, a claimant will not have to repay an overpayment when an initial decision to award benefits on an employment separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer's account will be charged for the overpaid benefits. Iowa Code § 96.3(7)(a) and (b).

Ms. Danforth received benefits, but has been disqualified for those benefits by this decision. Accordingly, the \$1,087.00 in benefits that Ms. Danforth received for four weeks between May 6, 2018 and June 2, 2018 constitutes an overpayment of benefits. Because the employer participated in the fact-finding interview, Ms. Danforth is required to repay the overpaid benefits. The employer's account shall be relieved of liability for benefits, including liability for benefits already paid.

**DECISION:**

The May 22, 2018, reference 01, decision is reversed. The claimant voluntarily quit the employment on May 8, 2018 without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount. The claimant must meet all other eligibility requirements. The claimant is overpaid \$1,087.00 in benefits for four weeks between May 6, 2018 and June 2, 2018. The claimant must repay the benefits. The employer's account shall be relieved of liability for benefits, including liability for benefits already paid.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/rvs