

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SAMUEL R GRAY
Claimant

IOWA FLUID POWER INC
Employer

APPEAL 21A-UI-00762-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/13/20
Claimant: Respondent (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer Participation in Fact-Finding Interview

STATEMENT OF THE CASE:

Iowa Fluid Power, the employer/appellant, filed an appeal from the November 19, 2020, (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified of the hearing. A telephone hearing was held on March 9, 2021. The employer participated through Eric Striegel, vice president, sale and marketing and Valarie Burns, human resources director. Mr. Gray participated and testified. Official notice was taken of the administrative record.

ISSUE:

Was Mr. Gray's separation from employment a layoff, a discharge for misconduct or did he voluntarily quit without good cause attributable to the employer?
Was Mr. Gray 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. Gray began working for the employer on May 13, 2019. He worked as a full-time sales intern for the summer of 2020. Mr. Gray's internship ended on August 16, 2019. Mr. Gray returned to school at Iowa State University.

Mr. Gray began working as a researcher at Iowa State University. In March 2020, the United States declared a public health emergency because of the COVID 19 pandemic. Due to the pandemic, Mr. Gray's hours at his research job were reduced. Mr. Gray filed his initial claim based on those reduced hours.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Mr. Gray's separation from employment is with 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. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employees shall be considered to have voluntarily quit employment.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). 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). "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).

"Good cause attributable to the employer" does not require fault, negligence, wrongdoing or bad faith by the employer. *Dehmel v. Employment Appeal Bd.*, 433 N.W.2d 700, 702 (Iowa 1988)("[G]ood cause attributable to the employer can exist even though the employer is free from all negligence or wrongdoing in connection therewith"); *Shontz v. Iowa Employment Sec. Commission*, 248 N.W.2d 88, 91 (Iowa 1976)(benefits payable even though employer "free from fault"); *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787, 788 (Iowa 1956)("The good cause attributable to the employer need not be based upon a fault or wrong of such employer."). Good cause may be attributable to "the employment itself" rather than the employer personally and still satisfy the requirements of the Act. *Raffety*, 76 N.W.2d at 788.

In this case, Mr. Gray worked the summer of 2020 and returned to school when his internship ended. Benefits are allowed.

Since Mr. Gray is eligible for benefits the issue of whether or not he must repay benefits is moot.

DECISION:

The November 19, 2020, (reference 01) unemployment insurance decision is affirmed. Mr. Gray's separation from employment is with good cause attributable to the employer. Benefits are allowed provided he is otherwise eligible.



Daniel Zeno
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March 11, 2021
Decision Dated and Mailed

dz/lj