

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KHAGENDRA SIWAKOTI
Claimant

APPEAL NO. 20A-UI-02684-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CHARLES GABUS MOTORS INC
Employer

OC: 03/08/20
Claimant: Appellant (2)

Iowa Code § 96.5-1 – Voluntary Quit
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Federal Law PL 116-136 Sec. 2104 – Recovery of Overpayment of Federal Benefit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 27, 2020, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on April 30, 2020. Claimant participated and was represented by attorney Marlon Mormann. Employer participated by attorney James Hinchliff and witnesses Kelsey Gabus McBride and Brock Grim. Claimant's Exhibits A-B were admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on March 3, 2020. Claimant voluntarily quit on that date as he'd located other work with Polk City Liquor. Claimant was to begin his employment on March 5, 2020, but employer deferred the beginning of claimant's employment until after the COVID concerns had subsided.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) 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.

Iowa Admin. Code r. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

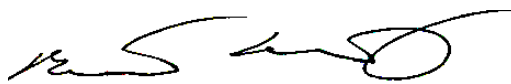
In this matter, claimant voluntarily quit his job for the sole purpose of starting other employment he'd already secured prior to his quit. The only reason he did not start the employment was out of the proprietor's COVID-19 fears.

Claimant's job separation does not disqualify him from the receipt of unemployment benefits.

Employer's account will not be charged for benefits received by claimant.

DECISION:

The decision of the representative dated March 27, 2020, reference 01, is reversed. Unemployment insurance benefits are allowed provided claimant is otherwise eligible. Employer's account will not be charged in this matter.



Blair A. Bennett
Administrative Law Judge

May 5, 2020
Decision Dated and Mailed

bab/scn