

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TROY OCONNER
Claimant

APPEAL NO: 20A-UI-02947-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEYS MARKETING COMPANY
Employer

OC: 03/08/20
Claimant: Appellant (1-R)

Section 96.5-1 – Voluntary Leaving
871 IAC 24.25(2) – Voluntary Quit to Move
Section 96.3-7 – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 6, 2020, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 4, 2020. The claimant participated in the hearing. Gayla Clark, Store Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his employment to move.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time store employee for Casey's from August 28, 2018 to December 11, 2019. He notified the employer he was voluntarily quitting to move to California because he was unable to finish his term at Northwest Iowa Community College and had to leave the dorm immediately. He did not have anywhere else to live and consequently he had to move home to California. Continued work was available with this employer, had the claimant not voluntarily left his employment.

Despite being denied benefits at the initial fact-finding, the decision was made by Iowa Workforce Development to release funds of the claimants while their appeals were pending due to the backlog in appeals caused by the recent COVID 19 outbreak. The claimant was one of the individuals whose funds were released pending appeal. The administrative record shows the claimant filed for and received a total of \$1,500.00 in unemployment insurance benefits for the six weeks ending April 25, 2020.

The claimant has received federal pandemic unemployment compensation in the amount of \$1,800.00 for the two weeks ending April 22, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

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 f. 871-24.25(2) 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:

- (2) The claimant moved to a different locality.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). In order for benefits to be allowed, the reason for leaving must be due to unlawful, intolerable or detrimental working conditions created by the employer. (Emphasis added).

While the claimant's decision to quit to move to another area was based upon good personal reasons, he has not demonstrated a good-cause reason attributable to the employer for leaving. (Emphasis added). Therefore, benefits must be denied.

As the claimant/appellant has been receiving benefits, pending a determination on his appeal, the next issue in this case is whether the claimant/appellant was overpaid unemployment insurance benefits.

Iowa Code section 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.
 - a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

Since the decision disqualifying the claimant has been affirmed, the claimant was overpaid \$1,500.00 in unemployment insurance benefits.

DECISION:

The April 6, 2020, reference 01, decision is affirmed. The claimant 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. The claimant is overpaid benefits in the amount of \$1,500.00 for the six weeks ending April 25, 2020. The issue of whether the claimant has been overpaid federal pandemic unemployment compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.



Julie Elder
Administrative Law Judge

August 18, 2020
Decision Dated and Mailed

je/scn