

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KEVIN A CASTILLO
Claimant

RANDSTAD US LLC
Employer

APPEAL 20A-UI-03134-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/12/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
PL 116-136, Sec. 2104(b) – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

On April 14, 2020, the claimant filed an appeal from the April 10, 2020, (reference 03) unemployment insurance decision that denied benefits based on a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on May 7, 2020. Claimant participated. Employer did not register for the hearing and did not participate.

ISSUES:

Did claimant voluntarily leave the employment with good cause attributable to the employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

Was the claimant overpaid unemployment compensation benefits?

Is the claimant eligible for Federal Pandemic Unemployment Compensation (FPUC)?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Employer provides temporary workers to client companies. Claimant was last assigned to work on the assembly line at Lennox Industries in Marshalltown, Iowa. Claimant was working full-time hours. Claimant's last day on the job was March 13, 2020.

At the beginning of March 2020, claimant was ill and was having problems at home. Claimant missed some work. A recruiter named Iris gave claimant a verbal warning about his attendance.

On March 12, 2020, claimant was very ill. He was supposed to work the next day on March 13, 2020, but he overslept due to his illness. By the time he woke up, the shift was almost over. Claimant figured he was terminated, so he did not return to work and did not contact employer.

Employer never told claimant that he was terminated.

Despite being denied benefits at initial fact-finding, the decision was made by Iowa Workforce Development to release funds of claimants while their appeals were pending due to the backlog in appeals caused by the recent COVID 19 outbreak. Claimant was one of the individuals whose funds were released pending appeal. The administrative record shows, claimant filed for and received a total of \$2,459.00 in regular unemployment insurance benefits after this separation from employment on March 13, 2020, for the seven weeks ending April 25, 2020.

Based on a review of the administrative record, claimant has also received Federal Pandemic Unemployment Compensation (FPUC) in the gross amount of \$2,400.00 since this disqualifying separation from employment.

REASONING AND CONCLUSIONS OF LAW:

As a preliminary matter, the administrative law judge concludes claimant resigned and was not terminated from employment.

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).

In this case, employer did not tell claimant he was terminated or that he should not return to the workplace. Claimant suspected he would be terminated, but did not know if that was truly the case as he never returned to employer to try to explain the situation. Claimant made the conscious decision not to return to work or even call employer.

This case will be analyzed as a voluntary quit.

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.

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).

Here, claimant has not proven he resigned for a good cause reason attributable to employer. Claimant abandoned the job because he had a no-call/no-show absence and thought he would be terminated. That is not a good cause reason that can be attributed to the employer.

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

Iowa Code § 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 \$2,459.00 in unemployment insurance benefits.

The administrative law judge additionally concludes claimant has been overpaid Federal Pandemic Unemployment Compensation.

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment.--In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency...

Here, the claimant is disqualified from receiving regular unemployment insurance (UI) benefits. Accordingly, this also disqualifies claimant from receiving Federal Pandemic Unemployment Compensation (FPUC). In addition to the regular UI benefits claimant received, he also received an additional \$2,400.00 in FPUC benefits for the four week period ending April 25, 2020. Claimant is required to repay those benefits.

DECISION:

The April 10, 2020, (reference 03) unemployment insurance decision is affirmed. 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 \$2,459.00 and is obligated to repay the agency those benefits. The claimant has been overpaid \$2,400.00 in FPUC and is obligated to repay the agency those benefits as well.



Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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Fax (515)478-3528

May 13, 2020
Decision Dated and Mailed

cal/scn

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.