

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SHEILA J GRIFFIN
Claimant

**SIOUX CITY COMMUNITY SCHOOL
DISTRICT**
Employer

APPEAL 20A-UI-04465-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)

STATEMENT OF THE CASE:

The claimant/appellant, Sheila J. Griffin, filed an appeal from the May 22, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on June 11, 2020. The claimant participated personally. The employer, Sioux City Community School District, participated through Stefanie Verros. Brian Fahrendholz also testified.

The administrative law judge took official notice of the administrative records. Claimant Exhibit A and Employer Exhibits 1-3 were admitted. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant voluntarily quit the employment with good cause attributable to the employer?
Is the claimant overpaid benefits?
Is the claimant eligible for Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed part-time as a school bus driver, and was separated from employment on September 19, 2019, when she quit the employment. Continuing work was available. The claimant’s job was not in jeopardy, and she was not given an option to resign in lieu of termination.

The claimant began employment on November 1, 2018. She tendered her resignation on September 6, 2019, after being upset about conflicting directions from her peer, Lisa Peterson, and director, Brian Fahrendholz. (Employer Exhibit 2). The claimant had received a directive not to transport a child to a certain school and on September 5, 2020, Ms. Peterson, who acted in a dispatch role, directed the claimant to go to the school. When the claimant arrived, she was

informed by Mr. Fahrendholz that only one bus was supposed to be at the school. He did not reference her being in trouble or being disciplined. He later discovered that Lisa Peterson had misunderstood communications about who could transport to that school. The claimant stated she quit because she felt caught between two opposing forces, who both had the power to discipline her. Ms. Peterson was a peer and did not have disciplinary authority. The claimant did not go to her direct manager, Jeff Brown, with concerns about the issue, before tendering her resignation (Employer Exhibit 3).

Prior to quitting, the claimant had reported issues to management. In January 2019, she reported profanity from a co-worker, and it stopped after management met with him. In February, for approximately two weeks, the claimant felt harassed and stressed as her keys were missing each day. In spring, there was an incident involving a bus assistant being absent and the claimant being stressed to a level that the parent called the school district concerned. She was not disciplined for the incident and there were no other incidents from spring until her resignation.

Despite being denied benefits after the initial fact-finding, the decision was made by Iowa Workforce Development to release funds of claimants while their claims were pending due to the backlog caused by the recent COVID 19 outbreak. Claimant was one of the individuals whose funds were released pending the initial decision. The administrative record shows, claimant filed for and received a total of \$2569.00 in unemployment insurance benefits for the weeks between March 29, 2020 and May 16, 2020.

The claimant also received federal unemployment insurance benefits through Federal Pandemic Unemployment Compensation (FPUC). Claimant received \$5400.00 in federal benefits for the nine-week period ending May 16, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation from the employment was 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.

The claimant has the burden of proof to establish she quit with good cause attributable to the employer, according to Iowa law. "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. Industrial Relations Commission*, 277 So.2d 827 (Fla. App. 1973).

Ordinarily, "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code section 96.2. *O'Brien v. EAB*, 494 N.W.2d 660, 662 (Iowa 1993)(citing *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986) "[C]ommon sense and prudence must be exercised in evaluating all of the

circumstances that lead to an employee's quit in order to attribute the cause for the termination.”
Id.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 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).

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.

The credible evidence presented is the claimant voluntarily quit after being upset that she had received conflicting instructions from her peer and the director, and being concerned that she could be disciplined if she defied either of them. Because her peer would not have had power to discipline her, reasonably, she could have followed management's directive, or alternately escalated the matter to her immediate supervisor, Jeff Brown, for guidance, to help preserve employment.

Based on the evidence presented, the administrative law judge is not persuaded the work conditions escalated to a point that would be deemed detrimental or a hostile work environment. The administrative law judge recognizes that approximately 6-9 months prior to quitting, the claimant had discussed issues with management about the work environment, and in each case, they were addressed and she was not subject to discipline.

The claimant did not try to bring her concerns to management about whose directives she should be following after September 6, 2019, and based upon the information provided the administrative law judge recognizes the claimant's frustration, but does not believe a reasonable person would have considered the conditions to be hostile or detrimental, and would have quit. Rather, a reasonable person would have gone to management to request clarification and to preserve employment.

Accordingly, the administrative law judge concludes the claimant may have had good, compelling personal reasons to quit the employment, but has failed to establish she quit for good cause reasons attributable to the employer, according to Iowa law. Benefits must be withheld.

As claimant has received benefits to which she was not entitled, 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 \$2569.00 in unemployment insurance benefits.

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 \$5400.00 in FPUC benefits for the nine- week period ending May 16, 2020. Claimant is required to repay those benefits.

While the claimant may not be eligible for regular State of Iowa unemployment insurance benefits, she may be eligible for unemployment insurance benefits that have been made available to claimants under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"). The Pandemic Unemployment Assistance ("PUA") section of the Cares

Act discusses eligibility for claimants who are unemployed due to the Coronavirus. For claimants who are ineligible for regular unemployment insurance benefits under Iowa Code Chapter 96, they may be eligible under PUA.

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, 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>.

DECISION:

The unemployment insurance decision dated May 22, 2020, (reference 01) is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

The claimant has been overpaid \$2569.00 in regular unemployment insurance benefits. The claimant has also been overpaid \$5400.00 in Federal Pandemic Unemployment Compensation. These overpayments are subject to recovery.



Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

June 26, 2020
Decision Dated and Mailed

jlb/sam