

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**AMBER L LEBAHN**  
Claimant

**ROSS HOLDINGS LLC**  
Employer

**APPEAL 20A-UI-11593-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/12/20**  
**Claimant: Respondent (2)**

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.3(7) – Overpayment of Benefits  
Iowa Admin. Code r. 871-24.10 – Employer Participation in Fact-finding Interview  
PL 116-136 Section 2104(B) – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

The employer/appellant filed an appeal from the September 16, 2020 (reference 02) unemployment insurance decision that allowed unemployment insurance benefits to the claimant based upon her separation from work. The parties were properly notified of the hearing. A telephone hearing was held on November 2, 2020. The claimant, Amber L. Lebahn, did not participate. The employer, Ross Holdings LLC, participated through witness Shannon Schmidt. Employer's Exhibit 1 was admitted. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

**ISSUES:**

Did claimant voluntarily quit the employment with good cause attributable to employer?  
Has the claimant been overpaid any unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?  
Can any charges to the employer's account be waived?  
Has the claimant been overpaid Federal Pandemic Unemployment Compensation?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a telephone service representative. She began her employment on January 27, 2020 and her employment ended on February 3, 2020 when she failed to call or show up for work for three consecutive work days. Her last day physically worked on the job was January 27, 2020. She only worked one day.

The employer has a written policy in place which states that three no call no shows can be considered a voluntary resignation. See Exhibit 1. Claimant was aware of the policy. See Exhibit 1. Claimant was a no call no show to her shifts on January 30, 2020; January 31, 2020; and February 3, 2020. She never contacted the employer after missing these shifts. The employer attempted to contact the claimant and there was no response.

Claimant's administrative records establish that she has received unemployment insurance benefits of \$0.00 from July 12, 2020 to present due to a lock on her account. Claimant has not received Federal Pandemic Unemployment Compensation benefits either due to a lock on her account.

The employer never received a telephone call to participate in the fact-finding interview. It had sent documentation stating that the claimant had voluntarily quit her employment with the protest to Iowa Workforce Development.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code §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.

Claimant had an intention to quit and carried out that intention by failing to come to work for further shifts. As such, 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 (Ia. Dist. Ct. App. 1973).

Iowa Admin. Code r. 871-24.25(4) provides:

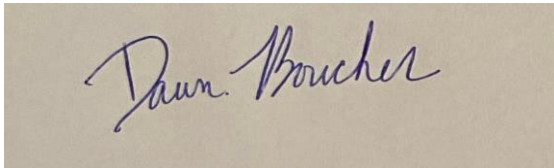
Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified 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:

- (4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The claimant's voluntary quitting was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied. Because no benefits have been paid to date, the issues of overpayment of regular unemployment insurance benefits funded by the State of Iowa and Federal Pandemic Unemployment Compensation benefits are moot.

**DECISION:**

The September 16, 2020 (reference 02) unemployment insurance decision is reversed. Claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits are denied until the claimant has worked in and earned wages for insured work equal to ten times her weekly benefit amount after her February 3, 2020 separation date, and provided she is otherwise eligible.



---

Dawn Boucher  
Administrative Law Judge

November 6, 2020  
Decision Dated and Mailed

db/mh

*Note to Claimant:* This decision determines you are not eligible for regular unemployment insurance benefits funded by the State of Iowa under state law. 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.

If you do not qualify for regular unemployment insurance benefits funded by the State of Iowa under state law, you may qualify for benefits under the Federal Pandemic Unemployment Assistance ("PUA") section of the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act") that discusses eligibility for claimants who are unemployed due to the Coronavirus. **You will need to apply for PUA to determine your eligibility under the program.** For additional information on how to apply for PUA go to: <https://www.iowaworkforcedevelopment.gov/pua-information>.

If you are denied regular unemployment insurance benefits funded by the State of Iowa and wish to apply for PUA, please visit: <https://www.iowaworkforcedevelopment.gov/pua-information> and scroll down to "Submit Proof Here." You will fill out the questionnaire regarding the reason you are not working and upload a picture or copy of your fact-finding decision. Your claim will be reviewed for PUA eligibility. If you are eligible for PUA, you will also be eligible for Federal Pandemic Unemployment Compensation (FPUC) until the program expires. Back payments PUA benefits may automatically be used to repay any overpayment of state benefits. If this does not occur on your claim, you may repay any overpayment by visiting: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>.

If you have applied and have been approved for PUA benefits, this decision will **not** negatively affect your entitlement to PUA benefits.