

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MAEGAN GOODLAXSON
Claimant

CARE INITIATIVES
Employer

APPEAL 22A-UI-07981-JD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/06/22
Claimant: Respondent (4)**

Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.5 (2) a – Discharge for Misconduct
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code. r. 871-24.10 – Employer/ Rep. Participation in Fact-Finding Interview

STATEMENT OF THE CASE:

On March 30, 2022, Care Initiatives (employer/appellant) filed an appeal from the March 24, 2022, reference 01, unemployment insurance decision that concluded she was eligible for regular unemployment benefits because her voluntary quitting of her employment was with good cause attributable to her employer. A telephone hearing was held at on May 17, 2022 pursuant to due notice. The claimant, Meagan Goodlaxson, participated and testified. The employer Care Initiatives, participated through hearing representative Thomas Kuiper, and Carrie Gerst, Administrator, Heidi Galloway, Business Office Manager, and Jennifer Ketelsen, Human Resources Director. Claimant's Exhibit A and Employer's Exhibits 1-6 were offered and admitted into the record. The administrative law judge took official notice of the administrative record.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

Has the claimant been overpaid unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?

Can charges to the employer's account be waived?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Claimant began working for employer on June 28, 2021. Claimant last worked as a full-time Benefits Payroll Manager. Claimant was separated from employment on March 10, 2022, when she did not return to work following her lunch break. The claimant did not notify the employer that she was quitting or the reasons behind her separation. The claimant testified that she struggled with the work load and the lack training that she had received. The employer had instituted a Performance Improvement Plan (PIP) with claimant on January 25, 2022, that outlines specific areas where the claimant needed to improve and the action steps necessary to achieve those performance

goals.(Employer's Ex. 5). The parties revisited the PIP on February 10, 2022, and March 9, 2022.
Id.

The employer testified that the claimant was showing marked improvement in some areas but there still several key areas that were being monitored on an on-going basis. The claimant testified that she did not feel she was giving the appropriate amount of support and direction from her supervisor and that coupled with the work load were the biggest factors in her decision to separate from the employer. The employer's proffered exhibits provide direct evidence that the employer was meeting with the claimant frequently and coaching her in the areas where she was struggling. The employer wanted the claimant to succeed and her job was not in jeopardy. It was evident from the claimant's testimony that she would rather tell her employer who should be doing her work instead of taking direction from her employer on how she could improve her performance.

The administrative record reflects that claimant has received unemployment benefits in the amount of \$1,784.00, since filing a claim with an effective date of March 6, 2022, for the five weeks-ending April 9, 2022. The administrative record also establishes that the employer provided information regarding the claimant's separation on the SIDES system with the phone number to call for the fact-finding interview. Employer's representative testified that they were not notified or called regarding the fact-finding interview. The employer was not provided an opportunity to participate,

REASONS & CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes 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.

Iowa Admin. Code r. 871-24.25 provides, in pertinent part:

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.

(22) The claimant left because of a personality conflict with the supervisor.

The employer doing everything possible to ensure the claimant's success but she did not have the capacity at that time to be coached. She refused to take direction from her supervisor or be willing to work with her employer and instead chose to complain to her HR contact and attempted to direct her work flow rather than be coached on how to be successful in her position. The claimant's decision to walk off the job without any warning or following up with her employer were for reasons personal to her but not for good cause reasons attributable to the employer.

Iowa Code § 96.3(7)a-b, provides:

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.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. The employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits. This prohibition against relief of charges shall apply to both contributory and reimbursable employers.

(b) However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

Iowa Admin. Code r. 871-24.10 provides:

Employer and employer representative participation in fact-finding interviews.

(1) "Participate," as the term is used for employers in the context of the initial determination to award benefits pursuant to Iowa Code section 96.6, subsection

2, means submitting detailed factual information of the quantity and quality that if unrebutted would be sufficient to result in a decision favorable to the employer. The most effective means to participate is to provide live testimony at the interview from a witness with firsthand knowledge of the events leading to the separation. If no live testimony is provided, the employer must provide the name and telephone number of an employee with firsthand information who may be contacted, if necessary, for rebuttal. A party may also participate by providing detailed written statements or documents that provide detailed factual information of the events leading to separation. At a minimum, the information provided by the employer or the employer's representative must identify the dates and particular circumstances of the incident or incidents, including, in the case of discharge, the act or omissions of the claimant or, in the event of a voluntary separation, the stated reason for the quit. The specific rule or policy must be submitted if the claimant was discharged for violating such rule or policy. In the case of discharge for attendance violations, the information must include the circumstances of all incidents the employer or the employer's representative contends meet the definition of unexcused absences as set forth in 871—subrule 24.32(7). On the other hand, written or oral statements or general conclusions without supporting detailed factual information and information submitted after the fact-finding decision has been issued are not considered participation within the meaning of the statute.

(2) "A continuous pattern of nonparticipation in the initial determination to award benefits," pursuant to Iowa Code section 96.6, subsection 2, as the term is used for an entity representing employers, means on 25 or more occasions in a calendar quarter beginning with the first calendar quarter of 2009, the entity files appeals after failing to participate. Appeals filed but withdrawn before the day of the contested case hearing will not be considered in determining if a continuous pattern of nonparticipation exists. The division administrator shall notify the employer's representative in writing after each such appeal.

(3) If the division administrator finds that an entity representing employers as defined in Iowa Code section 96.6, subsection 2, has engaged in a continuous pattern of nonparticipation, the division administrator shall suspend said representative for a period of up to six months on the first occasion, up to one year on the second occasion and up to ten years on the third or subsequent occasion. Suspension by the division administrator constitutes final agency action and may be appealed pursuant to Iowa Code section 17A.19.

(4) "Fraud or willful misrepresentation by the individual," as the term is used for claimants in the context of the initial determination to award benefits pursuant to Iowa Code section 96.6, subsection 2, means providing knowingly false statements or knowingly false denials of material facts for the purpose of obtaining unemployment insurance benefits. Statements or denials may be either oral or written by the claimant. Inadvertent misstatements or mistakes made in good faith are not considered fraud or willful misrepresentation.

This rule is intended to implement Iowa Code section 96.3(7)"b" as amended by 2008 Iowa Acts, Senate File 2160.

Because the claimant's separation was disqualifying, benefits were paid to which she was not entitled. The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for those benefits, even

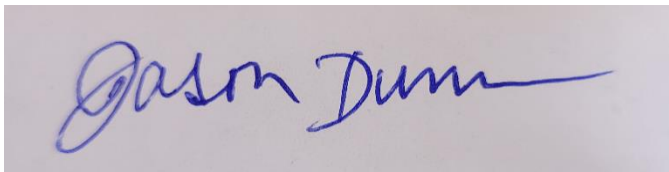
though the claimant acted in good faith and was not otherwise at fault. However, the overpayment will not be recovered when it is based on a reversal on appeal of an initial determination to award benefits on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. The employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits. Iowa Code § 96.3(7)(b)(1)(a).

In this case, the benefits were not received due to any fraud or willful misrepresentation by the claimant and the employer did not participate in the initial proceeding to award benefits. As such, the claimant is not obligated to repay to the agency benefits she received in connection with this employer's account.

However, the employer did not participate in the initial proceeding to award benefits because it did not receive notice of the fact finding interview and did not receive a telephone call when the fact finding interview was conducted. Iowa Code § 96.3(7)(b)(1)(a) provides: "[t]he employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits." (emphasis added). In this case the employer did not fail to timely or adequately respond to a request for information because the employer did not receive the notice of fact-finding interview and did not receive a telephone call from the interview as the telephone number being called was not associated with this employer. The benefits paid to claimant in this case were not because the employer failed to respond timely or adequately to the department's request for information. As such, the employer cannot be charged for the overpayment either and the overpayment shall be absorbed by the fund.

DECISION:

The March 24, 2022, (reference 01) unemployment insurance decision is modified in favor of the employer/appellant. Claimant voluntarily left 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 unemployment insurance benefits in the amount of \$1,784.00 and is not obligated to repay the agency those benefits. The benefits paid to claimant in this case were not because the employer failed to respond timely or adequately to the department's request for information. As such, the employer cannot be charged for the overpayment either and the overpayment shall be absorbed by the fund.



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June 30, 2022
Decision Dated and Mailed

jd/mh