

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN L PRASKA
Claimant

APPEAL NO: 18A-UI-11595-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

FIVE STAR COOPERATIVE
Employer

OC: 01/07/18

Claimant: Respondent (2)

Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.3(7) – Benefit Overpayment

STATEMENT OF THE CASE:

Five Star Cooperative, the employer, filed a timely appeal from a representative's unemployment insurance decision dated November 26, 2018, (reference 02) which held John Praska eligible to receive unemployment insurance benefits, finding claimant was dismissed from work on October 26, 2018 for unsatisfactory work, and concluding the claimant was separated for no disqualifying reason. After due notice was provided, a telephone hearing was held on December 13, 2018. Claimant participated. Employer participated by Mr. Tony Meyers, Operations/Safety Manager, and Ms. Amanda Kramer, Human Resource Generalist.

ISSUES:

The first issue is whether Mr. Praska voluntarily quit his job with good cause attributable to the employer, or whether the claimant was separated for work-connected misconduct sufficient to warrant the denial of unemployment insurance benefits.

The second issue is whether Mr. Praska was overpaid job insurance benefits.

The third issue is if overpaid, whether the claimant is liable to repay the overpayment or the employer's account should be charged based upon the employer's participation or non-participation in the fact-finding interview.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: The claimant, John Praska, was employed by Five Star Cooperative as a seasonal harvest time helper from September 20, 2018 until October 26, 2018, when he voluntarily quit employment. Mr. Praska was paid by the hour. His immediate supervisor's were Tony Meyers, Operations Manager, and Blake Smith, lead person.

On October 26, 2018, Mr. Praska went to Mr. Meyer's office and stated that he wanted to "leave" employment. Mr. Meyers clarified that Mr. Praska's intention was to quit employment, Mr. Praska confirmed his intention.

Mr. Praska cited dissatisfaction with the method the company used for tarping grain that was unloaded in an outside area. Mr. Praska was also dissatisfied because other workers were unwilling or unable to provide him assistance in doing his job when he requested it. Work continued to be available to Mr. Praska at the time of his leaving. The employer hired a replacement for him.

Although Mr. Praska made some minor mistakes during the short time he was employed, the employer instructed Mr. Praska how to correctly do those jobs. Mr. Praska was not the subject of disciplinary actions and his job was not in jeopardy when he voluntarily left employment.

REASONING AND CONCLUSIONS OF LAW:

The evidence in the record clearly establishes that Mr. Praska voluntarily quit his employment with Five Star Cooperative and was not discharged by the employer. Benefits are denied.

Iowa Code § 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(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.

Iowa Admin. Code r. 871-24.25(33) 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:

(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

When a person voluntarily quits their employment due to dissatisfaction with the work environment or inability to work with other employees, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(21)(6).

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).

In the case at hand, the evidence is clear that Mr. Praska chose to voluntarily quit his employment and was not discharged by the employer. Mr. Praska quit because of general dissatisfaction with the work environment. He disagreed with the methods used by the employer in tarping and storing grain and was dissatisfied because other employees had their own duties to accomplish and were not available to help Mr. Praska perform his job duties.

Prior to Mr. Praska quitting employment on October 26, 2018, the employer brought some small matters to Mr. Praska's attention in the form of training. He received no disciplinary actions. The employer was satisfied with his work performance. He chose to leave employment.

While Mr. Praska's reasons for leaving may have been good cause reasons from his personal viewpoint, they were not good cause reasons attributable to the employer for leaving. Accordingly, Mr. Praska is disqualified for unemployment insurance benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and is otherwise eligible.

Because Mr. Praska was deemed ineligible for benefits, any benefits he received could constitute an overpayment. The administrative record reflects that he received unemployment insurance benefits in the amount of \$1,373.02 since filing a claim with an effective date of January 7, 2018, for the benefit week ending November 3, 2018 through November 24, 2018. The administrative record also establishes that the employer did participate in the fact-finding interview or make a first-hand witness available for rebuttal.

The unemployment insurance law requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. However, a claimant will not have to repay an overpayment when an initial decision to award benefits on an employment separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer's account will be charged for the overpaid benefits. Iowa Code section 96.3(7)a, b.

The claimant received benefits but is denied benefits as a result of this decision. The claimant, therefore, was overpaid benefits.

Because the employer participated in the fact-finding interview, the claimant is required to repay the overpayment and the employers account will not be charged for benefits paid.

DECISION:

The representative's unemployment insurance decision dated November 26, 2018, reference 02 is reversed. Claimant quit employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and is otherwise eligible. Claimant was overpaid job insurance benefits in the amount of \$1,373.02 and is liable to repay this amount. The employer's account shall not be charged based upon the employer's participation in the fact-finding interview.

Terry P. Nice
Administrative Law Judge

Decision Dated and Mailed

tn/scn