

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GRANT L TOWNSELL
Claimant

PILOT TRAVEL CENTERS LLC
Employer

APPEAL 19A-UI-07972-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/08/19
Claimant: Respondent (2)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

STATEMENT OF THE CASE:

On October 14, 2019, Pilot Travel Centers, LLC (employer) filed an appeal from the October 7, 2019, reference 04, unemployment insurance decision that allowed benefits based upon the determination Grant L. Townsell (claimant) voluntarily quit with good cause attributable to the employer due to detrimental working conditions. The parties were properly notified about the hearing. A telephone hearing was held on October 31, 2019. The claimant did not respond to the hearing notice and did not participate. The employer participated through Martha Houser, Guest Service Manager. No exhibits were offered into the record. The administrative law judge took official notice of the administrative record, specifically the fact-finding documents and the claimant's claim history.

ISSUES:

Did the claimant voluntarily quit the employment with good cause attributable to the 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 all of the evidence in the record, the administrative law judge finds: The claimant was employed part-time as a Cashier beginning on April 1, 2019, and his last day worked was April 25, 2019. The employer has a policy that states if an employee does not show up for four scheduled shifts and the employer is unable to reach the employee by the fifth shift, the employee is considered to have abandoned the job.

On April 25, the claimant reported to work for his eight-hour shift but he left after two hours. He told the team lead that there was an issue at the business he owned. The claimant was scheduled to work two shifts each week for the next two weeks. He did not report to work as scheduled or notify the employer of his absence. The employer has not had contact with the claimant since April 25 and considers him to have abandoned the job.

The administrative record reflects that the claimant has not received any unemployment insurance benefits since filing a claim with an effective date of September 8, 2019. The administrative record also establishes that the employer did not participate in the fact-finding interview, make a first-hand witness available for rebuttal, or provide written documentation that, without rebuttal, would have resulted in disqualification.

REASONING AND 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. Benefits are denied.

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(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.

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. As the claimant failed to report for work or notify the employer for three consecutive scheduled days in violation of the employer's policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are denied.

As the claimant has not received any unemployment insurance benefits to date, the issue of overpayment is moot and the employer's account shall not be charged based on this separation.

DECISION:

The October 7, 2019, reference 04, unemployment insurance decision is reversed. The 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.

As the claimant has not received any unemployment insurance benefits to date, the issue of overpayment is moot and the employer's account shall not be charged based on this separation.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn