

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KODY A PECK
Claimant

HY-VEE INC
Employer

APPEAL 20A-UI-05249-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.3(7) – Overpayment of Benefits
PL 116-136 Sec 2104(B) – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the May 29, 2020 (reference 01) unemployment insurance decision that denied benefits based upon her voluntarily quitting work without good cause attributable to the employer. The parties were properly notified of the hearing. A telephone hearing was held on June 23, 2020. The claimant, Kody A. Peck, participated personally. The employer, Hy-Vee Inc., was represented by Erin Bewley and participated through witness Cindy Vaschon. 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?
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: Claimant was employed full-time as a cake decorator. She began working for this employer on November 27, 2018 and her employment ended on November 23, 2019 when she voluntarily quit. Her immediate supervisor was Sandra Clark.

The claimant was being evicted from her apartment and decided to move back home to Sioux City, Iowa. She gave the employer a verbal resignation the day before she left to move to Sioux City, Iowa. There was continuing work available to her if she had not quit.

Claimant's administrative records establish that she has received regular unemployment insurance benefits of \$2,629.00 from April 5, 2020 through May 23, 2020. Claimant has also received Federal Pandemic Unemployment Compensation of \$4,200.00 from April 5, 2020 through May 23, 2020.

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 tendering a verbal resignation as she intended to move to Sioux City, Iowa. There was no other job lined up for her in Sioux City, Iowa. 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 (Fla. Dist. Ct. App. 1973).

Iowa Admin. Code r. 871-24.25(2) 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:

- (2) The claimant moved to a different locality.

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 benefits are denied, the issues of overpayment of benefits must be addressed.

Iowa Code § 96.3(7)a-b, 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.

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.

In this case, the claimant has received benefits but was not eligible for those benefits, as such, the claimant is obligated to repay to the agency the regular unemployment insurance benefits she received, \$2,629.00 from April 5, 2020 through May 23, 2020.

The next issue is whether the claimant is overpaid Federal Pandemic Unemployment Compensation benefits. The administrative law judge finds that she is.

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 benefits. Accordingly, this also disqualifies claimant from receiving Federal Pandemic Unemployment Compensation. In addition to the regular benefits claimant received, the claimant also received an additional \$4,200.00 from April 5, 2020 through May 23, 2020 in Federal Pandemic Unemployment Compensation benefits. Claimant is overpaid and required to repay those benefits as well.

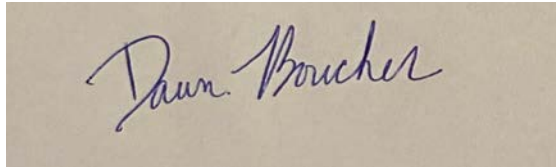
Note to Claimant: If this decision determines you are not eligible for regular unemployment insurance benefits and you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, 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 May 29, 2020 (reference 01) unemployment insurance decision is affirmed. 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 separation date, and provided she is otherwise eligible.

The claimant has been overpaid regular unemployment insurance benefits of \$2,629.00 from April 5, 2020 through May 23, 2020 and is obligated to repay the agency those benefits.

The claimant has also been overpaid Federal Pandemic Unemployment Compensation benefits in addition to regular unemployment insurance benefits. Claimant is overpaid \$4,200.00 from April 5, 2020 through May 23, 2020 in Federal Pandemic Unemployment Compensation benefits and is obligated to repay the agency those benefits as well.



Dawn Boucher
Administrative Law Judge

July 1, 2020
Decision Dated and Mailed

db/scn