

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**JAMA MUHUMED**  
Claimant

**WALMART INC**  
Employer

**APPEAL NO. 20A-UI-05508-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

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

Iowa Code Section 96.5(1) – Voluntary Quit  
Iowa Code Section 96.3(7) – Recovery of Overpaid Benefits  
Public Law 116-136, Section 2104(b) – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

Jama Muhumed filed a timely appeal from the June 3, 2020, reference 01, decision that disqualified him for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that Mr. Muhumed voluntarily quit on April 2, 2020 without good cause attributable to the employer. After due notice was issued, a hearing was held on July 10, 2020. Mr. Muhumed participated. The employer did not provide a telephone number for the appeal hearing and did not participate. Somali-English interpreter Mona Salad of CTS Language Link and CLI assisted with the hearing. Exhibits A and B were received into evidence. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant (DBRO and KPYX).

**ISSUE:**

Whether the claimant's voluntary quit was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Jama Muhumed was employed by Walmart, Inc. as a part-time custodian from 2016 until April 1, 2020, when he voluntarily quit. Mr. Muhumed usually worked 23 to 28 hours per week. His work duties included cleaning floors and restrooms at a Walmart retail store. Mr. Muhumed is a disabled person, due to the loss of an arm. Mr. Muhumed last performed work for the employer on April 1, 2020. On that day, Mr. Muhumed developed a cough, panicked at the thought that it might be COVID-19, abandoned his duties and ran home to self-quarantine. Mr. Muhumed did not return to the employment. Mr. Muhumed did not consult with a medical professional in making the decision to leave the employment and not return to the employment.

Mr. Muhumed established a claim for benefits that was effective April 5, 2020. Iowa Workforce Development set his weekly benefit amount at \$335.00 and paid that amount for each of the eight weeks between April 5, 2020 and May 30, 2020. The regular benefits totaled \$2,680.00. Iowa Workforce Development also paid \$600.00 in Federal Pandemic Unemployment

Compensation to Mr. Muhumed for eight weeks between April 5, 2020 and May 30, 2020. The FPUC benefits totaled \$4,800.00.

Workforce Development records reflect that Mr. Muhumed has insufficient base period wages from employer's other than Walmart to be monetarily eligible for benefits without including the Walmart base period wages.

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

Iowa Code section 96.5(1)(d) 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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

Iowa Administrative Code rule 817-24.26(6) provides as follows:

Separation because of illness, injury, or pregnancy.

a. Nonemployment related separation. The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain 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).

Iowa Administrative Code rule 871-24.25(1)(21) provides, in relevant part, as follows:

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 following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

...  
24.25(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.  
24.25(21) The claimant left because of dissatisfaction with the work environment.

Quits that are due to unsafe working conditions are deemed to be for good cause attributable to the employer. Iowa Admin. Code r. 871-24.26(2).

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See Iowa Admin. Code r. 871-24.26(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). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d (Iowa 2005).

The evidence in the record established a voluntary quit that was without good cause attributable to the employer. The evidence does not show that Mr. Muhumed was exposed to COVID-19 and does not show that it was medically necessary for Mr. Muhumed to leave the employment. Mr. Muhumed's decision to leave the employment was not based on advice from a medical professional. The weight of the evidence fails to establish unsafe, intolerable or detrimental working conditions. Rather the evidence establishes that Mr. Muhumed grew dissatisfied with the work environment after community spread of COVID-19 became a community concern and Mr. Muhumed's personal fear. Mr. Muhumed's fear of exposure did not make the quit for good cause attributable to the employer. Accordingly, Mr. Muhumed is disqualified for benefits until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. Mr. Muhumed must meet all other eligibility requirements. The employer's account shall not be charged.

Iowa Code section 96.3(7) provides that if a claimant receives benefits and is deemed ineligible for the benefits, Workforce Development must recover the benefits and the claimant must repay the benefits, even if the claimant was not at fault in receiving the benefits.

Because this decision affirms the disqualification, the \$2,680.00 in regular benefits that Mr. Muhumed received for the period of April 5, 2020 through May 30, 2020 is an overpayment of benefits that Mr. Muhumed must repay.

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...

Because the claimant is disqualified from receiving regular unemployment insurance (UI) benefits, the claimant is also disqualified from receiving Federal Pandemic Unemployment Compensation (FPUC). The \$4,800.00 in FPUC benefits the claimant received for the eight weeks between April 5, 2020 and May 30, 2020 is an overpayment of benefits that he must repay.

**DECISION:**

The June 3, 2020, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged. The claimant is overpaid \$2,680.00 in regular benefits for eight weeks between April 5, 2020 and May 30, 2020. The claimant is overpaid \$4,800.00 in Federal Pandemic Unemployment Compensation for eight weeks between April 5, 2020 and May 30, 2020. The claimant must repay the overpaid regular and FPUC benefits.

*Note to Claimant:* This decision determines you are not eligible for regular unemployment insurance benefits. 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 this decision becomes final or if you are not eligible for Pandemic Unemployment Assistance (PUA), you will have an overpayment of benefits that you will be required to repay.* 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>.



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James E. Timberland  
Administrative Law Judge

August 13, 2020  
Decision Dated and Mailed

jet/mh