

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TESSA J OQUIST
Claimant

WINNEBAGO INDUSTRIES
Employer

APPEAL 17A-UI-10226-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/03/17
Claimant: Respondent (2)**

Iowa Admin. Code r. 871-23.43(9)a – Combined Wage Claim Relief of Charges

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The employer filed a timely appeal from the September 25, 2017, (reference 01) decision that did not relieve employer's account of benefit charges on the combined wage claim (CWC). After due notice was issued, a telephone conference hearing was held on October 23, 2017. Claimant did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing. Employer participated through Susan Gardner, human resources supervisor. Employer Exhibit 1 was received into evidence. The administrative law judge took official notice of the administrative records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Can the Iowa employer be relieved of benefit charges on the combined wage claim?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant most recently worked full-time as a production assembler and was employed from October 10, 2016, until April 3, 2017, when she separated due to three consecutive no call/no shows.

The employer had a written policy which stated three days of consecutive no call/no shows will result in voluntary separation by job abandonment (Employer Exhibit 1). The claimant, who went by the name Tessa McLean while employed for this employer, received a copy of the policy (Employer Exhibit 1). Prior to separation, the claimant had been issued a verbal warning on March 2, 2017, a written warning on March 8, 2017 and a 2 day suspension on March 20 and 21, 2017 for her attendance.

The employer expected the claimant to notify the employer by way of its toll-free attendance line within one hour of her start time if she was unable to perform work. The claimant last performed

work on March 28, 2017. She was then a no call/no show on March 29, 30, 31 and April 3, 2017. Separation thereby ensued.

Claimant filed a combined wage claim in Minnesota but earned wages from this Iowa employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is disqualified in benefits based on her separation and the employer is relieved of benefit charges.

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(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. The court in *Reelfs v. EAB*, No. 06-1750 (Iowa App. 6/27/2007) held that absences for more than three consecutive work days without proper notification and authorization shall be presumed to be a quit without good cause. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays (March 29, 30, 31 and April 3, 2017) in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer.

Iowa Admin. Code r. 871-23.43(9)(a) provides, in part:

(9) Combined wage claim transfer of wages.

a. Iowa employers whose wage credits are transferred from Iowa to an out-of-state paying state under the interstate reciprocal benefit plan as provided in Iowa Code section 96.20 will be liable for charges for benefits paid by the out-of-state paying state. No reimbursement so payable shall be charged against a contributory employer's account for the purpose of Iowa Code section 96.7, unless wages so transferred are sufficient to establish a valid Iowa claim, and such charges shall not exceed the amount that would have been charged on the basis of a valid Iowa claim. However, an employer

who is required by law or by election to reimburse the trust fund will be liable for charges against the employer's account for benefits paid by another state as required in Iowa Code section 96.8(5), regardless of whether the Iowa wages so transferred are sufficient or insufficient to establish a valid Iowa claim. Benefit payments shall be made in accordance with the claimant's eligibility under the paying state's law. Charges shall be assessed to the employer which are based on benefit payments made by the paying state.

Since the employer would be relieved of charges based upon this fact scenario in an Iowa claim, it shall be relieved of charges on this combined wage claim. Claimant's qualification and eligibility shall be determined by the state in which the claim was filed.

DECISION:

The September 25, 2017, (reference 01) decision is reversed. The account of the employer (account number 039071-000) shall not be charged. Claimant's qualification and eligibility shall be determined by the state in which the claim was filed.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn