

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ANDREW LAMAR-RYAN
Claimant

LOWE'S HOME CENTERS LLC
Employer

APPEAL 20A-UI-10750-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 08/11/19
Claimant: Respondent (2R)

Iowa Code § 96.5(2)a – Discharge for Misconduct
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
PL 116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Employer filed an appeal from the August 27, 2020 (reference 03) unemployment insurance decision that allowed benefits. The parties were properly notified of the hearing. A telephone hearing was held on October 21, 2020, at 2:00 p.m. Claimant participated. Employer participated through Bill Bruner, Assistant Store Manager, and Tami King, Department Supervisor. Employer's Exhibits E1 – E21 were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant's separation was a discharge for disqualifying job-related misconduct or a voluntary quit without good cause attributable to employer.
Whether claimant was overpaid benefits.
Whether claimant should repay those benefits and/or whether employer should be charged based upon its participation in the fact-finding interview.
Whether claimant is 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 as a full-time Head Cashier from December 31, 2019 until his employment with Lowe's Home Centers ended on May 19, 2020. Claimant was absent from work from May 13, 2020 through May 15, 2020 for bereavement leave due to his father's death. When claimant notified employer of his bereavement-related absences, the assistant store manager told claimant that he would be demoted as a result of his excessive absenteeism. Claimant found the comments inappropriate and reported the conversation to employer's Human Resources department. When claimant returned to work after his bereavement leave, his coworkers did not ask him how he was doing, which made claimant feel disrespected. On May 19, 2020, claimant submitted his verbal resignation to his direct supervisor. Claimant told his supervisor

that he had a lot going on and thought it was best if that day was his last day. Claimant left work and did not return. There was continuing work available for claimant.

The administrative record reflects that claimant filed a claim for benefits effective August 11, 2019 and a claim for a second benefit year effective August 9, 2020. Claimant received unemployment insurance (UI) benefits, Federal Pandemic Unemployment Compensation (FPUC) and Emergency Unemployment Compensation (EUC) in either or both of the benefit years.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes employer did not discharge claimant; claimant voluntarily quit his employment without good cause attributable to employer. Benefits are denied.

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). 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(21), (22) provide:

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.

(22) The claimant left because of a personality conflict with the supervisor.

Claimant's verbal resignation is both evidence of his intention to sever the employment relationship and an overt act of carrying out his intention. Claimant voluntarily quit his employment. Claimant's stated reason for quitting his employment was that he had a lot going on and thought it was best. However, claimant testified that he quit because he felt disrespected by his coworkers when none of them asked how he was doing after his father's

death. Claimant also referenced his supervisor's reaction when claimant requested bereavement-related leave. The reasons claimant quit can best be described as dissatisfaction with his work environment (i.e. coworkers) and conflict with his supervisor. These reasons do not constitute good cause attributable to the employer. Claimant has not met his burden of proving he voluntarily quit his employment for good cause attributable to employer. Benefits are denied.

The issues of overpayment of UI, FPUC and EUC and employer's chargeability are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

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. Individuals who do not qualify for regular unemployment insurance benefits, 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>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

DECISION:

The August 27, 2020 (reference 03) unemployment insurance decision is reversed. Claimant voluntarily quit without good cause attributable to employer. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

REMAND:

The issues of whether claimant has been overpaid Unemployment Insurance, Federal Pandemic Unemployment Compensation and Emergency Unemployment Compensation and whether employer should be charged are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision



Adrienne C. Williamson
Administrative Law Judge
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November 2, 2020
Decision Dated and Mailed

acw/sam