

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RANDELL WOODRUFF
Claimant

APPEAL 22A-UI-05200-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CIRCLE COMPUTER RESOURCES INC
Employer

**OC: 01/23/22
Claimant: Appellant (1)**

Iowa Code §96.5(2)a-Discharge/Misconduct
Iowa Code §96.5(1)- Voluntary Quit
Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

On February 25, 2022, the claimant/appellant filed an appeal from the February 9, 2022, (reference 01) unemployment insurance decision that allowed benefits from January 23, 2022 through February 5, 2020 based on claimant being terminated before the date of resignation. The parties were properly notified about the hearing. A telephone hearing was held on April 6, 2022. Claimant participated. Employer participated through Human Resource Manager, Matthew Clarke. Exhibit A was admitted into the record. Administrative notice was taken of claimant's unemployment insurance benefits records.

ISSUES:

- I. Is claimant's appeal timely?
- II. Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The unemployment insurance decision was mailed to the appellant's address of record on February 9, 2022. The decision informed claimant he could appeal the decision and he needed to appeal the decision by February 19, 2022. The appellant did not receive the decision. Claimant became aware that he was disqualified when his unemployment case coordinator cancelled their meeting. Claimant emailed the case coordinator to inquire why the meeting was cancelled and the case coordinator informed him his unemployment benefits were denied. The claimant appealed the decision on February 23, 2022.

Claimant began working for employer on September 27, 2021. Claimant last worked as a full-time Systems Engineer. Claimant was separated from employment on January 24, 2022.

On January 24, 2022, claimant submitted his written resignation to his supervisor, Heidi Hromidko. Claimant resigned due to his frustration with the employer not providing him guidance regarding his job responsibilities and job roles. Claimant did not have direction on what systems he has supposed to administer. Claimant was also frustrated with how the employer ran its operation. (See Exhibit A). In claimant's resignation letter he informed the employer that his last day would be February 4, 2022. Claimant also requested that he be allowed to use his remaining vacation time so he could apply for new jobs. (Exhibit A).

Ms. Hromidko denied claimant's request to take vacation time because claimant only had four hours accumulated. Ms. Hromidko informed claimant that he did not need to fulfill his two-week notice and that he could no longer work for the employer. Ms. Hromidko immediately required claimant turn in the employer's property. Claimant did not perform any work for the employer after January 24, 2022.

Claimant did not have any prior verbal or written warnings. Both parties agree it is standard procedure for employers not to allow these types of employees to work the remaining two-weeks because of the security risk to the employer.

REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether the appellant's appeal is timely. The administrative law judge determines it is.

Iowa Code section 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account

shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The appellant did not have an opportunity to appeal the fact-finder's decision because the decision was not received. Without notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant filed an appeal within a reasonable period of time after discovering the disqualification. Therefore, the appeal shall be accepted as timely.

The next issue is whether the claimant voluntarily quit his employment with good cause attributable to the employer. For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer. Prior to his last day of work the employer discharged the claimant but has not proven misconduct.

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.

Iowa Code § 96.5(2)a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

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).

In this case, claimant tendered his written resignation to the employer with an effective date of February 4, 2022. 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 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(21) 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:

- (21) The claimant left because of dissatisfaction with the work environment.

The administrative law judge finds claimant voluntarily quit because he was dissatisfied with his work environment. The claimant was primarily unhappy that his roles and duties were not clearly set out for him. Under Iowa law this is not a good cause attributable to the employer. The claimant is not eligible for benefits effective February 6, 2022.

However, when the claimant tendered his resignation effective February 4, 2022, he was not allowed to work out the remainder of his resignation period. His last day worked was January 24, 2022 instead of his intended February 4, 2022 resignation date. The employer failed to prove that the January 24, 2022, discharge was due to job-related misconduct by the claimant. As such, Iowa Admin. Code r. 871-24.25(38) establishes that no disqualification shall be imposed from the last day of work, January 24, 2022, until the proposed date of resignation, February 4, 2022.

Iowa Admin. Code r. 871-24.25(38) provides:

Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

As such, there is no disqualification imposed due to claimant's separation from employment from January 24, 2022 through February 4, 2022 due to Iowa Admin. Code r. 871-24.25(38). Further, because claimant's initial resignation was not for a good-cause reason attributable to the employer, benefits are denied effective February 6, 2022 due to the claimant voluntarily quitting.

DECISION:

The claimant's appeal is timely.

The February 9, 2022 (reference 01) unemployment insurance decision is AFFIRMED. Claimant voluntarily quit employment without good cause attributable to the employer but was discharged from employment prior to the end of his resignation notice period for no disqualifying reason. Claimant is eligible for benefits from January 24, 2022 through February 4, 2022, provided claimant meets all other eligibility requirements. Benefits are denied effective February 6, 2022 due to claimant voluntarily quitting without good cause attributable to the employer. Unemployment insurance benefits are denied effective February 6, 2022 until claimant has worked in and earned wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.



Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

April 12, 2022
Decision Dated and Mailed

cs/kmj

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 were 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.

ATTENTION: On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa is the week ending June 12, 2021. You may be eligible for benefits incurred prior to June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.