

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**HASAN K AL-SHURAF**  
Claimant

**APPEAL NO. 14A-UI-10683-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ROCKWELL COLLINS INC**  
Employer

**OC: 08/31/14  
Claimant: Respondent (2-R)**

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Section 96.5-1 - Voluntary Quit  
Section 96.3-7 - Overpayment of Benefits

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated October 1, 2014, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on November 3, 2014. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Rita Sackett participated in the hearing on behalf of the employer with a witness, Mike Zimmerman.

**ISSUES:**

Did the claimant voluntarily quit employment without good cause attributable to the employer?

Was the claimant overpaid unemployment insurance benefits and is he required to repay the benefits he received?

Is the employer subject to charge for benefits paid?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as an electrical engineer from January 3, 2011, to September 3, 2014.

The claimant submitted his written resignation to the employer on August 19, 2014, to be effective August 29, 2014. He submitted the resignation after he was placed on a performance recovery plan. At the time he submitted his resignation, no one with the employer had informed the claimant that he was going to be discharged and the employer was satisfied with his progress on the performance plan.

On August 21, 2014, the claimant tried to rescind his resignation. The employer decided to not allow the claimant to rescind his resignation because the employer had already opened a requisition to fill the claimant's position.

The claimant filed for and received a total of \$3297 in unemployment insurance benefits for the weeks between August 31 to November 1 , 2014.

A fact-finding interview was scheduled for September 29 with notice to both parties. The representative who was to participate in the interview on behalf of the employer, Lisa Kubot, was unavailable at the time of the fact-finding interview. The employer had submitted documents for the fact-finding interview.

**REASONING AND CONCLUSIONS OF LAW:**

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a.

Iowa Admin. Code r. 871-24.25(37) provides that the following reason for a voluntary quit is presumed to be without good cause attributable to the employer: "The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation."

Once the claimant notified the employer that he was resigning, a voluntary quit was established. The fact that he later changed his mind but the employer accepted that he had quit and would not allow him to rescind his quitting does not transform the quit into a discharge.

The unemployment insurance law generally requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. But a claimant is not required to repay an overpayment when an initial decision to award benefits on an employment-separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer's account will be charged for the overpaid benefits. Iowa Code § 96.3-7-a, -b.

The claimant received benefits but has been denied benefits as a result of this decision. The claimant, therefore, was overpaid \$3297 in benefits.

In this case, determining whether the employer participated in the fact-finding interview requires reviewing the documentation submitted by the employer, which was not sent to both parties for the hearing. That issue is remanded to the Agency.

**DECISION:**

The unemployment insurance decision dated October 1, 2014, reference 01, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant was overpaid \$3297 in benefits. The issue of deciding whether the employer participated in the hearing, whether the overpayment must be recovered from the claimant, and whether the employer must be charged for benefits paid to the claimant is remanded to the Agency.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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