

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LAWRENCE A HANDLOS
Claimant

STRUVE LABS INC
Employer

APPEAL 17A-UI-05728-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/30/17
Claimant: Respondent (1)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.27 – Voluntary Quitting – Part-time Employment
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

STATEMENT OF THE CASE:

The employer filed an appeal from the May 25, 2017, (reference 02) unemployment insurance decision that found claimant was eligible for benefits, but removed any wages under with this employer. The parties were properly notified about the hearing. A telephone hearing was held on June 16, 2017. Claimant did not participate. Employer participated through owner/CEO Dr. Rexanne Struve and operations manager Mark Sheeder. Official notice was taken of the administrative record, including claimant's wage history and benefit payment history, with no objection.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?

Has the claimant requalified or is he otherwise monetarily eligible for benefits?

If so, is the employer's account liable for potential charges?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part-time as a general maintenance employee from 2005, and was separated from employment on May 1, 2017, when he quit.

The last day claimant worked for the employer was on April 29, 2017. Claimant was next scheduled to work five hours sometime during the week of May 1, 2017. Claimant could work his five hours anytime during the week of May 1, 2017. Claimant did not work May 1, 2017 through May 7, 2017. Claimant did not contact the employer to report he was not going to work. On May 8, 2017, the employer contacted claimant and inquired about his hours for the week of May 1, 2017 because he had not reported in any hours for that week. Claimant told the employer he did not work any hours, he quit, and was not coming back. Claimant did not tell the employer why he quit. The employer had work available for claimant had he not quit. Claimant

was not told he had to quit or he would be fired. Dr. Struve was unaware that claimant was going to quit.

The administrative record shows that claimant has not requalified for benefits since this separation but reflects he appears to be otherwise monetarily eligible for benefits after this part-time employer's wages are excluded from the base period.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily left the employment without good cause attributable to the employer, and has not requalified but appears to be otherwise monetarily eligible.

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

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was 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. 871-24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

This rule is intended to implement Iowa Code section 96.5(1)"g."

See also, *McCarthy v. Iowa Emp't Sec. Comm'n*, 76 N.W.2d. 201 (Iowa 1956) wherein the court held that persons who become unemployed by a layoff from their full-time employer cannot be disqualified for a previous voluntary quit from a part-time employer.

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). 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).

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. Claimant failed to work his five hours during the week of May 1, 2017. Furthermore, when the employer contacted claimant on May 8, 2017, he told the employer he had not worked, he was not coming back, and he quit. Claimant's leaving the employment without notice or reason, and the failure to return to work renders the separation job abandonment without good cause attributable to the employer. While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law.

Inasmuch as claimant quit without a good-cause reason attributable to the employer, the separation is disqualifying. However, claimant has not requalified for benefits since the separation but appears to be otherwise monetarily eligible according to base period wages. Thus, claimant may be eligible for benefits based upon those other wages.

DECISION:

The May 25, 2017, (reference 02), unemployment insurance decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer and has not requalified for benefits but appears to be otherwise monetarily eligible. Benefits are allowed, provided he is otherwise eligible. The account of this part-time employer (STRUVE LABS INC, account number 327307-000) shall not be charged.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/rvs