

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

**BRITTANIE R VAUGHT**

Claimant

**APPEAL NO. 19A-UI-05566-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**

Employer

**OC: 06/09/19**

**Claimant: Respondent (2)**

Iowa Code Section 96.5(1) – Voluntary Quit

Iowa Code Section 96.3(7) - Overpayment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the July 2, 2019, reference 01, decision that allowed benefits to the claimant provided she was otherwise eligible and that held the employer's account could be charged for benefits, based on the Benefits Bureau deputy's conclusion that the claimant voluntarily quit on June 14, 2019 for good cause attributable to the employer. After due notice was issued, a hearing was held on August 6, 2019. Claimant Brittanie Vaught did not comply with the hearing notice instructions to register a telephone number for the hearing and did not participate. Daisey Kliment represented the employer. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant and the base period wages upon which the benefits are based (DBRO). Exhibits 1, 4, 6, 7 and 8 were received into evidence. The administrative law judge took official notice of the fact-finding materials for the limited purpose of determining whether the employer participated in the fact-finding interview and, if not, whether the claimant engaged in fraud or intentional misrepresentation in connection with the fact-finding interview.

**ISSUES:**

Whether the claimant's voluntary quit was for good cause attributable to the employer.

Whether the claimant was overpaid benefits.

Whether the claimant is required to repay benefits.

Whether the employer's account may be charged.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Brittanie Vaught was most recently employed by Casey's Marketing Company as a part-time store employee from April 15, 2019 until June 14, 2019, when she voluntarily quit. On June 14, 2019, Ms. Vaught walked off the job. At the time Ms. Vaught walked off the job, the employer was investigating whether Ms. Vaught had violated the employer's social media policy. Ms. Vaught

had created a social media chat page and had invited other employees to join. One or more of the coworkers Ms. Vaught had invited to join the social media chat page alerted the employer to the chat page. At the time Ms. Vaught walked off the job, her supervisor, Store Manager Suzette Harms, was investigating whether Ms. Vaught had retaliated against and threatened the coworkers who disclosed the social media chat page.

Ms. Vaught established an original claim for benefits that was effective June 8, 2019 and received \$267.00 in benefits for the two-week period of June 9-22, 2019. Casey's is the primary base period employer, based on wages paid to the claimant during an earlier period of employment. If the Casey's base period wages are excluded from the claimant's claim, the claimant lacks sufficient base period wages credits to be eligible for reduced benefits.

On June 28, 2019, an Iowa Workforce Development Benefits Bureau deputy held a fact-finding interview that addressed Ms. Vaught's separation from the employment. Ms. Vaught participated in the fact-finding interview by providing a verbal statement to the deputy that did not include intentionally misleading statements. The employer did not participate in the fact-finding interview. The employer's representative of record, Employers Edge, had received appropriate notice of the fact-finding interview. At the time of the fact-finding interview, the deputy attempted to reach the employer representative that Employers Edge had named at the number that Employers Edge had provided. The employer representative did not answer the deputy's call and did not respond to the voicemail message the deputy left. Casey's and Employers Edge's only contribution to the fact-finding interview was a cursory memo from Employer's Edge representative who lacked personal knowledge of the claimant's employment and separation from the employment.

#### **REASONING AND CONCLUSIONS OF LAW:**

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

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.

Iowa Admin. Code r. 871-24.25(22) 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:

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

Iowa Admin. Code r. 871-24.25(28) 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:

(28) The claimant left after being reprimanded.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See Iowa Administrative Code rule 871-24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d 213 (Iowa 2005).

The evidence in the record establishes a voluntary quit without good cause attributable to the employer. Ms. Vaught did not participate in the appeal hearing and did not present any evidence to meet her burden of proving that her voluntary quit was for good cause attributable to the employer. The employer's investigations of Ms. Vaught regarding the social media chat page and retaliation against coworkers who disclosed the chat page to the employer did not constitute intolerable and/or detrimental working conditions that would have prompted a reasonable person to leave the employment. The weight of the evidence establishes that Ms. Vaught quit the employment due to dissatisfaction with the work environment and dissatisfaction with the supervisor. Neither of those issues constituted good cause for walking off the job and quitting the employment. Ms. Vaught is disqualified for benefits until she has

worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. Ms. Vaught must meet all other eligibility requirements.

The unemployment insurance law 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. However, a claimant will not have 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) and (b).

The claimant received \$267.00 in benefits for the two-week period of June 9-22, 2019, but this decision disqualifies her for those benefits. Accordingly, the benefits the claimant received constitute and overpayment of benefits.

Iowa Administrative Code rule 871-24.10(1) defines employer participation in fact-finding interviews as follows:

Employer and employer representative participation in fact-finding interviews.  
24.10(1) "Participate," as the term is used for employers in the context of the initial determination to award benefits pursuant to Iowa Code section 96.6, subsection 2, means submitting detailed factual information of the quantity and quality that if unrebutted would be sufficient to result in a decision favorable to the employer. The most effective means to participate is to provide live testimony at the interview from a witness with firsthand knowledge of the events leading to the separation. If no live testimony is provided, the employer must provide the name and telephone number of an employee with firsthand information who may be contacted, if necessary, for rebuttal. A party may also participate by providing detailed written statements or documents that provide detailed factual information of the events leading to separation. At a minimum, the information provided by the employer or the employer's representative must identify the dates and particular circumstances of the incident or incidents, including, in the case of discharge, the act or omissions of the claimant or, in the event of a voluntary separation, the stated reason for the quit. The specific rule or policy must be submitted if the claimant was discharged for violating such rule or policy. In the case of discharge for attendance violations, the information must include the circumstances of all incidents the employer or the employer's representative contends meet the definition of unexcused absences as set forth in 871—subrule 24.32(7). On the other hand, written or oral statements or general conclusions without supporting detailed factual information and information submitted after the fact-finding decision has been issued are not considered participation within the meaning of the statute.

The cursory memo that Employers Edge submitted did not satisfy the employer participation requirement. Because the claimant did not receive benefits due to fraud or willful misrepresentation and because the employer failed to participate in the finding interview within the meaning of the law, the claimant is not required to repay the overpayment and the employer remains subject to charge for the overpaid benefits. The employer's account shall not be charged for benefits for the period beginning June 23, 2019.

**DECISION:**

The July 2, 2019, reference 01, decision is reversed. The claimant voluntarily quit on June 14, 2019 without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The claimant is overpaid \$267.00 in benefits for the two-week period of June 9-22, 2019. The claimant is not required to repay the overpaid benefits. The employer's account may be charged for the overpaid benefits. The employer's account shall not be charged for benefits for the period beginning June 23, 2019.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/rvs