

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**GARY D LAFRENZ**  
Claimant

**THE HUNGRY MIND LLC**  
Employer

**APPEAL 19A-UI-00685-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/16/18**  
**Claimant: Respondent (5R)**

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Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The employer filed an appeal from the January 18, 2019, (reference 02) unemployment insurance decision that allowed benefits based upon a determination that claimant did not quit but was discharged from employment for no disqualifying reason. The parties were properly notified of the hearing. A telephonic hearing was held on February 7, 2019. The claimant, Gary D. LaFrenz, participated. The employer, The Hungry Mind, L.L.C., participated through Kate Wade, Owner. Employer's Exhibits 1 and 2 were received and admitted into the record. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Did claimant voluntarily leave the employment with good cause attributable to the employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part-time, most recently as an employee, beginning February 1, 2018. Claimant last reported to the employer and worked on July 16, 2018. During the summertime, claimant initially requested fewer hours, as he was working at his other job at NIACC and he was going on vacation. Later, he contacted the employer and requested no hours to continue working his other job. The employer accommodated these requests. The employer told him to contact them and let them know when he wanted to pick up hours, and he has not contacted them with this request. According to Wade, claimant is still an employee, though he is not currently receiving any hours.

The administrative record reflects that claimant has received unemployment benefits in the amount of \$639.00, since filing a claim with an effective date of December 16, 2018, and a reopened claim date of January 27, 2019, for the five weeks ending February 2, 2019. The administrative record also establishes that the employer did participate in the fact-finding interview or make a first-hand witness available for rebuttal. The employer missed the call for

the fact-finding interview, as it received the letter about the fact-finding interview after the call occurred. According to the administrative record, Wade called back and left a voicemail regarding claimant's last date of work and the reason he had not been working.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant has not separated from employment.

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.

In this case, the evidence presented during the hearing indicates that claimant has not separated from this employer. There is no evidence that claimant told the employer he was quitting or that the employer discharged claimant from employment. Therefore, the administrative law judge finds claimant has yet to separate from this employer.

The outstanding questions are whether he is partially unemployed and whether he is on a leave of absence to pursue other employment. This matter will be remanded for further investigation, and for redetermination of the overpayment in light of these additional issues.

**DECISION:**

The January 18, 2019, (reference 02) unemployment insurance decision is modified with no change in effect. Claimant has not separated from employment.

**REMAND:**

The issues of whether claimant is partially unemployed and whether he is on an approved leave of absence are remanded to the Benefits Bureau for initial investigation and determination.

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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed

lj/scn